



# TradeMark Africa

## Procurement Procedures Manual

Control Version	<b>7.0</b>
Date Published	<b>15.06.2024</b>
Sections changed	
Signed	<b>Joe Namwaya</b>

Regulations Approved by the Board of Directors on

12 June 2024

Procurement Procedures Manual published in June 2024



## A. Preamble

### TMA Regulations – D. Procurement

#### Objectives of procurement

1. *At all times TMA staff shall carry out all procurement and contract management with the utmost transparency, probity, and integrity, and shall be held fully accountable for their actions. TMA staff shall also seek to achieve:*
  - a) *value for money through fair competition;*
  - b) *transparency and probity in procurement processes;*
  - c) *efficient and effective procurement processes; and*
  - d) *excellence in supplier performance through sound and effective contract management.*

#### Treatment of Value Added Tax (VAT)

2. *For the avoidance of doubt, all the values/ thresholds in this section of the Regulations are exclusive of VAT.*

#### Initiating procurement

3. *No procurement **shall be** initiated until a requisition for the goods, services, or works has been submitted and approved.*
4. *TMA reserves the right to reject any or all bids received during a procurement process and to annul any procurement process entirely at any time prior to contract award. TMA shall not be liable for any cancellation outcome.*
5. *For the avoidance of doubt, employment contracts are not covered by the Procurement Regulations (Section D of these Regulations) and the Procurement Procedures Manual.*
6. *Every procurement process shall be based on Terms of Reference which are a clear statement of TMA's requirements, and which may include scope of works, bill of quantities, bill of materials, statement of requirements, and specification.*



1. The Procurement Procedures Manual (PPM) is a subordinate to the TMA Regulations and supports their practical implementation. Throughout this document and where relevant the TMA Regulations are shown in the box at the start of each section.
2. The PPM applies to all procurement activity, for goods, services and works, in all countries of TMA operations. However, the following exclusions apply:
  - a) Utilities, rent, office lease (and associated refurbishment works to be undertaken by the lessor), purchase and maintenance of office vehicles.
  - b) Statutory certificates, licenses or accreditations legally required for TMA to operate; and
  - c) Enrolment on public training courses or workshops, including hotel accommodation for such courses or workshops.
3. The awarding of Grants *is not covered* by the PPM.
4. The PPM is designed to be used by all TMA staff who are responsible for programmes and projects, who undertake procurement and contract management in their day-to-day role, or who support procurement and contract management in a technical capacity. Furthermore, stakeholders that receive support from TMA should also familiarise themselves and adhere to the guidelines.
5. TMA is an equal opportunity organisation committed to providing a non-discriminatory environment. TMA employees shall not discriminate, based on race, religion, colour, age, physical/mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any applicant, bidder, contractor, subcontractor participating in TMA procurement processes, for provision of goods, services and works.
6. TMA will not tolerate fraud, bribery, corruption, or discrimination of any kind. At all times, in all dealings with suppliers, the interests of TMA shall remain paramount, and that personal or family gain, or the perception thereof, shall be avoided.
7. Procurement processes will be efficient, flexible, and transparent, permitting TMA to direct a greater focus on economic development in the region, by improving impact and results of projects and programmes in countries of operation.
8. To demonstrate that proper fiduciary responsibility is exercised in practice, the procurement unit and Project Leader (PL) shall ensure accurate records are kept at all stages during procurement and contract management throughout the life of the contract and that the records are retained as per TMA's retention policy.
9. The PPM should be read in conjunction with the following TMA Policies:
  - i. TMA Supplier Code of Conduct;
  - ii. Conflicts of Interest Policy;
  - iii. Fraud Prevention Policy and Fraud Response Plan;



- iv. Gifts and Hospitality Policy;
  - v. Duty of Care Policy;
  - vi. Project Cycle Management Guidelines; and
  - vii. Value for Money policy.
10. The PPM is a controlled document that shall be varied from time to time by Management. The Head of Procurement (HoP) is responsible for ensuring awareness, understanding, adoption and compliance with TMA’s PPM throughout the organisation and HOP shall provide communication and training from time to time.

## B. Interpretation

1. In this PPM the abbreviations given in the following table shall have the meaning ascribed to them as follows:

Abbreviation	Meaning
<b>Board</b>	The Board of Directors of TMA as provided for in the Articles
<b>CD</b>	Country Director
<b>CEO</b>	Chief Executive Officer
<b>COI</b>	Conflict of Interest
<b>CDM</b>	Commercial Delivery Manager
<b>SD_CR</b>	Senior Director Corporate Resources
<b>DoAA</b>	Director of Audit and Assurance
<b>DR&amp;C</b>	Governance, Risk & Compliance Director
<b>E&amp;SP</b>	Environmental and Social Protection
<b>Fwk</b>	Framework Agreement
<b>FwkSoS</b>	Framework Scope of Services
<b>HoP</b>	Head of Procurement
<b>PAR</b>	Project Appraisal Report
<b>Partner</b>	The implementing agency that TMA works with
<b>P&amp;PCMG</b>	Programme and Project Cycle Management Guidelines
<b>PD</b>	Portfolio Director
<b>PL</b>	Project Leader
<b>PPM</b>	Procurement Procedures Manual
<b>SIT</b>	Sustainable Inclusive Trade
<b>TC</b>	Tender Committee
<b>ToRs</b>	Terms of Reference
<b>TMA</b>	TradeMark Africa



2. “Due Diligence” means an independent review conducted to establish the veracity of statements made in a submitted bid regarding previous experience, capability, key personnel, organisational structures, key policies, or any other aspect of the supplier’s bid.
3. “Framework agreement” means a list of a defined number of shortlisted suppliers in a relevant market, that may be established at regional and/or country level, for a specified period and may incorporate ‘Lots’ as appropriate.
4. “Pre-qualification” means selecting competing suppliers against a pre-determined set of criteria. This ensures the selected suppliers have the capacity and capability to provide goods and/or services prior to being invited to bid for a particular requirement.
5. “Open tendering” means a method of procurement where competition is open to the market and initiated via advertisement on mediums of wide circulation including national/regional press; reputable online digital platforms and TMA website.
6. “Restricted competition” means a method of procurement that relies on the selection of bidders invited to bid for specific TMA assignments. Selection of bidders to participate in a restricted competition will include factors such as credible past experience and demonstrated capability of the service provider in relation to the assignment under consideration.
7. “Negotiated Tendering” is a form of selective tendering whereby TMA invites only a limited number of service providers to bid for a project or an assignment. Invitation will be based on past experience and performance on TMA projects.
8. “Single Sourcing/ Direct Procurement” means the selection of one supplier or contractor without competition.
9. The “round robin” method of supplier selection systematically allocates procurement opportunities among prequalified suppliers in order from a list, ensuring that each gets a fair chance to bid before the cycle restarts. This method promotes fairness and transparency, maintaining a competitive and unbiased procurement environment.
10. “Rent” refers to payments made to landlords or agents for the occupation of buildings.
11. “Utilities” means services provided by a utility company and these may include water, electricity, gas and telephone services.

### **C. Emergency Procurement**

1. Nonadherence with the PPM is only acceptable where, in the opinion of a member of SLT, there is an emergency in which there is a clear and present danger to the safety and well-being of TMA staff or property, and it is essential to deviate from the PPM to prevent harm. In such cases the deviation must be documented and reported to the CEO or appointed delegate as soon as practicable.



2. Emergency situations may include but are not limited to a natural disaster, fire, act of God, threat to life or property, civil unrest, riot and/or interruption of utilities.
3. Non-compliance to the PPM shall be limited to what is proportionate and necessary at the time, in response to the specific emergency.
4. As soon as is practically possible after the emergency has passed, the PL shall report, in writing, to the SD\_CR, the emergency, course of action taken and costs incurred, who shall in turn report to the CEO or appointed delegate as soon as practicable.

### **D. Programme and Project Procurement Design**

1. Early procurement planning in projects is important to determine the goods, services and works that shall be procured. The PL, in conjunction with HoP, shall be involved in PAR development, plan for the procurement and contract management phases to determine expected outcomes, quality, budget, timeline, supplier performance and results, to achieve value for money.
2. To help define TMA's requirement's suppliers and potential suppliers may be invited, in a fair and transparent way, to participate early in programme and project design through pre-tender market engagement (**See Section G**).

### **E. Environmental and Social Protection and Sustainable Trade**

1. TMA shall apply the World Bank's Environmental and Social Framework (ESF) guided by the ten Environmental and Social Standards (ESS) whilst at the same time complying with all relevant national laws and regulations.
2. TMA's procurement process will consider social and environmental safeguarding aspects as part of the selection process.
3. All infrastructure projects and all other projects assessed to be high or moderate risk shall have an Environmental and Social Impact Assessment (ESIA) completed and approved before work commences. All ESIA's, whether commissioned by TMA or not, shall be approved by the Head of Safeguarding and Project Risk management as being of satisfactory scope and quality.
4. All contractors engaged on projects assessed to be high or moderate risk shall be contractually required to comply with the World Bank's Environmental and Social Framework.  
All implementing partners, contractors, supervising consultants, TMA employees shall report all serious environmental and social incidents within 24 hours of its occurrence to the respective Project Leader who will then escalate the matter to the Sustainable Trade Team for further escalation to the Incident Response Group where applicable.
5. TMA is committed to environmental and social protection and has adopted environment and social standards in all procurement and contract management activity, that includes the effective



monitoring and supervision of environmental and social management measures through the contract management of suppliers.

6. TMA is committed to Sustainable Trade and increasing inclusion of under-represented groups in trade. This means TMA is committed to equal opportunities for all including gender, women in trade, youth, the poor; as well as responsible programming ensuring areas of environment, climate change and safeguards are covered within TMA's operations.
7. In planning and undertaking procurement processes, the PL shall give due consideration to safeguarding and project risk management measures and where relevant and appropriate, incorporate this into the design of procurement processes, evaluation criteria and contract management.
8. Detailed guidelines for programmatic safeguarding are in TMA Regulations Section J.

### F. Using Partner Procurement Processes

#### TMA Regulations – D. Procurement

##### Using Partner Procurement Processes

7. *Subject to the approval of the Tender Committee for contracts valued at \$250,000 & above and HoP for contracts below \$250,000, TMA may use procurement processes, including single-source processes, to award contracts for any value, carried out by a TMA partner where TMA is satisfied that value for money, transparency and good procurement practice has been followed.*

##### Using Partner Procurement Processes

1. The HoP in consultation with the PL, shall undertake any action deemed necessary to determine value for money, transparency and good procurement practice has been or is being achieved.
2. To undertake all necessary verification, the HoP shall seek from the partner all relevant documents including but not limited to the advertisement, tender documents sent to bidders, evaluation reports, approvals, and contract documentation, for review.
3. Furthermore, the HoP and/or PL, may undertake an exploratory telephone call or meeting, that shall be recorded in writing, with the relevant partner to establish the facts of the procurement process and to seek any relevant detail as required.
4. The report of the verification process shall be received by HoP who in the case of the contract being less than \$250,000, shall review and approve, or in the case of the contract being greater than \$250,000, shall subsequently submit to TC approval.



5. The decision of the TC or HoP, and details of any further steps or actions to be taken prior to use of the Partner procurement process, shall be communicated promptly to the partner, with explanation.
6. A request to use a Partner procurement process may be presented to TC or HoP as a Partner Procurement Process request during the planning stage. However, for the avoidance of doubt, the *subsequent recommendation for contract award* must be brought to TC or HoP at the appropriate time, for a further award decision, in accordance with paragraph 4 above.

### G. Pre-tender Market Engagement

#### TMA Regulations – D. Procurement

##### Pre-tender Market Engagement

8. *Pre-tender market engagement may be carried out with suppliers and potential suppliers with the intention of improving the approach to programmes and projects, designing framework agreements, and improving PARs, ToRs, budgets, and contract documents.*
9. *Pre-tender market engagement shall be carried out in a manner to ensure the process is fair and transparent to all participants and potential participants. The pre-tender market engagement will be documented.*

1. Pre-tender market engagement is the action of pro-actively and fairly contacting a broad range of suppliers and potential suppliers in the relevant market, during the programme and/or project design stage and is good practice.
2. The process shall be designed by the PL, in consultation with the HoP, and may be carried out on a project-by-project basis for goods, services and works, and undertaken within a reasonable period before the start of the procurement process.
3. The suppliers may be selected via open advertisement, EoI process, general market knowledge or another suitable method provided that the final list of suppliers selected to participate is representative of the suppliers in the relevant market.
4. Pre-tender market engagement may be carried out prior to establishment and/or call-off from framework agreements, or open or restricted procurement processes, including after an EoI stage, before commencing a tender process.





5. Pre-tender market engagements may:
  - i. help understand what works/services/goods are available in the market and the latest innovations in the design and delivery of those goods/services/works.
  - ii. help to design the ToRs, to determine the budget, to package the contract, to determine the optimum contract length and/or to understand the best way to design the procurement process, evaluation criteria and weightings, to obtain best value for money.
  - iii. help the supply market to understand TMA's requirements, aims, objectives and results expected from the procurement; and
  - iv. ascertain whether potential providers are interested in tendering.
  
6. TMA must avoid allegations of unfair treatment, bribery, or corruption, therefore care must be taken to ensure that:
  - i. supplier's participation in pre-tender market engagement is entirely voluntary;
  - ii. supplier's participation is fair and transparent to all participants and potential participants;
  - iii. is conducted on a no-obligation basis by TMA to either a) thereafter commence a procurement process and b) thereafter award any contract.
  - iv. is conducted on a no-obligation basis by the participating supplier to either a) participate in any future tender process or b) to be held to account for any information provided during the market engagement process.
  - v. supplier's confidential information is protected and not shared amongst other participating suppliers.
  - vi. no potential supplier is allowed undue influence in shaping the ToRs to the extent that they will be at an advantage in responding to the tender.
  - vii. all potential suppliers who are invited to participate are treated as potential tenderers without discrimination of any form and that all the information TMA provides shall be the same; and
  - viii. potential suppliers that decline to participate in the pre-tender market engagement may nonetheless still wish to participate in the tender and must be provided with the same opportunity to do so at the appropriate time.
  
7. A full ToR is not required for Pre-tender Market Engagement however a *Request for Market Information* containing the programme/project background or concept, envisaged aims of the pre-tender market engagement, objectives, and anticipated results, on which to receive supplier feedback, must be provided. The *Request for Market Information* document shall also contain details of the pre-tender market engagement process, how and when it will be carried out, the method of shortlisting (if applicable) and TMA contact details for questions.
  
8. Where pre-tender market engagement is commenced with suppliers from the general market, the HoP shall publish a *Request for Market Information* document on the TMA website containing all relevant details and inviting participation.



9. Where pre-tender market engagement is commenced with suppliers on a framework agreement, or following an EoI, or prior to a restricted process, the HoP shall send the *Request for Market Information* document, containing all relevant details to each supplier individually, inviting participation.
10. A Supplier's participation in pre-tender market engagement is entirely voluntary and on a "no obligation" basis.
11. After the *Request for Market Information* document is published or sent, a pre-tender market engagement shall be conducted with interested suppliers, via telephone calls, video conferencing, and/or conference/meeting. TMA may, at its discretion, shortlist suppliers between stages in the process. The method of shortlisting shall be explained in the *Request for Market Information* document or communicated to participants as soon as it becomes known.
12. The HoP shall create a full written record of the pre-tender market engagement process, the organisations and individuals consulted, and the responses received from each. The written record shall be available on demand by a range of internal and external stakeholders.
13. Should, at any point during the pre-tender market engagement process, a Conflict of Interest (CoI) arise it must be declared as soon as it becomes known, recording the matter on the form provided for the purpose. The HoP shall determine what action (if any) should be taken, considering the specific circumstances declared.

### **H. Terms of Reference (ToR)**

1. The ToR is a clear statement of TMA's requirements and will be specific to the goods, services or works that are required and may take the form of any or all of scope of works, bill of quantities, bill of materials, statement of requirements, and/or specification.
2. The ToR shall be designed by the PL and should be ambitious and strive to achieve excellent results. The ToR must also be realistic, clear, contain all relevant information and be written in such a way that suppliers are able to fully understand and price the requirements during a procurement process. All ToRs developed by the PL shall be reviewed and approved by the Portfolio Director prior to tendering.
3. The ToR will explain programme and project scope, aims, timelines, expected outcomes, quality, and results and the price model that will apply to the contract.
4. Specific brand names are permitted in the ToR, provided that the use of brand names is justified, achieves value for money, transparency and good procurement practice and does not materially



restrict competition. The use of brands names shall be justified and documented in writing to the HoP in the case of the contract being less than \$250,000, or the TC in the case of the contract being \$250,000 and above, which shall subsequently approve the use of brand names, before the relevant open, restricted, or single source procurement process begins.

## I. Valuing and Grouping Procurement Requirements & Repeat Orders

1. All procurement requirements shall be grouped in such a way to ensure achievement of value for money and expected results. Where it is intended to enter into a several smaller contracts over a period of time in order to fulfil a single larger requirement for similar goods, services or works, the PL shall, where practical, group together those contracts and shall adopt the more competitive procurement process, based on the approximate value.
2. Where there is need for procurement of specific goods/services and a similar procurement process has been competitively undertaken within the last 12 months, a repeat order, with appropriate justification, may be permitted up to 100% of the original contract amount. Repeat orders valued at \$250,000 and above shall be approved by the TC and then CEO and those below \$250,000 shall be approved by the HoP.

## J. Selection of Procurement Method

**TMA Regulations – D. Procurement**

**Selection of procurement method**

10. *Framework agreements shall be the preferred procurement method for all goods, works, and services.*
11. *Where an appropriate framework agreement does not exist, the following procurement processes are available for use:*
  - a) *Open competition; or*
  - b) *Restricted competition; or*
  - c) *Single source procurement; or*
  - d) *Negotiated tendering.*



**Financial Thresholds Decision Tree**

Table 1 - Financial \$ threshold, procurement process and procurement approach.

Does Framework Agreement exist?	Yes	Undertake a mini competition on framework agreement.			Negotiated tendering may be considered in line with Regulations D (17)
	No	Greater than \$250,000	Open Competition	Advert	
		Between \$250,000 - \$30,001	Restricted Competition	Invite minimum of 5 bids	
		\$30,000 and below	Single Source	Award to 1 supplier	

**K. Framework Agreements**

**TMA Regulations – D. Procurement**

**Framework agreements**

12. When establishing a framework agreement, an open competition will be undertaken to appoint suppliers to a defined number of places on the framework.
13. A framework agreement will remain in place for three years. **This can be extended to a further maximum period of three years subject to satisfactory performance.**
14. At each point when a specific requirement for goods, services or works is identified, **a simplified competitive process shall be held between relevant suppliers on the framework agreement,** with all bids being evaluated in accordance with the published evaluation criteria. The exception to competition shall be the round robin approach for individual consultants/ input-based assignments where fee rates are predetermined.



1. Where an appropriate framework agreement exists, the same shall be used.
2. Framework agreements are a method by which goods, services and works can be procured efficiently and transparently to achieve value for money. Framework agreements, once established, provide several benefits when compared to traditional open, restricted, and direct processes, not least they provide a quicker route to market.
3. Framework Agreements can be established in the following thematic areas, which may change from time to time:
  - i. Infrastructure and Services.
  - ii. Transport and Logistics Services.
  - iii. Standards and SPS Services.
  - iv. Improved Business Competitiveness.
  - v. Improved Trade Environment.
  - vi. Green Trade.
  - vii. ICT and Digital Trade Systems.
  - viii. Monitoring, Evaluation, Learning and Knowledge Management.
  - ix. Public Relations and Communications.
  - x. Corporate Services and Audit Services.
4. The PL in liaison with HoP, shall determine the number of suppliers to be awarded Framework Agreements, or 'Lot' as appropriate. The Framework Agreement may be established at regional and/or country level, incorporating 'Lots' where necessary and appropriate to the relevant market.
5. The initial establishment and subsequent contracting from a framework agreement, may include a round(s) of pre-tender market engagement, prior to tenders being invited.
6. The initial establishment and subsequent contracting from a framework agreement may include a round(s) of negotiation, during the evaluation process and prior to contract award.
7. The HoP, may, at his/her sole discretion, add additional related works, services, or goods to the scope of the framework agreement as deemed appropriate at any time during the life of the framework.
8. The HoP in liaison with the PL, may open up the framework by adding more suppliers through an initial competitive process and also exclude non-performing suppliers from the framework list based on performance assessment.
9. For individual consultancy frameworks and input based assignments, TMA may request potential framework service providers to submit fee rates at the establishment of the frameworks. The fee rates provided shall be in line with the TMA published fee rate schedule.



### Establishing a Framework Agreement

1. The establishment of the Framework shall be carried out in accordance with the procurement processes set out in Section L based on the estimated value of the Framework.
2. The advertisement shall, depending on the requirement, be published in the way in which TMA publishes tender adverts to invite tenders.
3. Upon receipt of tenders, each shall be evaluated in accordance with the evaluation *selection* criteria as stated in the invitation to tender documents that shall include TMA's supplier Code of Conduct form to be completed and submitted along with the offers.
4. At the conclusion of the evaluation process the defined number of suppliers, where it is possible, who achieve the highest score above the minimum pass mark based on the selection criteria shall be appointed to the framework agreement, or where relevant, the Lots, until the defined number of places on the Framework or Lots are filled at which point no more suppliers will be appointed irrespective of whether they have passed the minimum pass-mark.

### Using a Framework Agreement

1. Once established, individual pieces of work will be required throughout the life of the framework agreement. For each individual piece of work a ToR shall be issued.
2. Suppliers on the Framework Agreement shall be invited to participate via **round robin** approach and the following procedures shall apply:
  - (a) Where framework suppliers have provided the fee rates (for individual consultants and input based assignments), the HoP shall ensure fair allocation of work to service providers (under the framework agreement) under a principle of rotation. Any waiver to this must be granted by the HoP. The budget for each individual assignment under this provision shall not exceed \$250,000.
  - (b) Where framework suppliers have not provided fee rates, a mini competition shall be applicable. Competition shall be carried out in a batch of a minimum of three service providers until all service providers under the framework have been invited to tender.
3. For the avoidance of doubt the procurement process tendering timelines in Section L **do not** apply to Framework Agreements mini-competition processes. The suppliers shall be permitted a **reasonable period** to submit tenders based on the complexity of the requirements.



4. Where mini competition is undertaken, framework service providers must be assessed on the at least the financial offer, as well as potentially a form of technical assessment, to be agreed by the Procurement Manager.
5. For call off with mini competition, upon receipt of tenders, each shall be evaluated in accordance with the detailed evaluation *award* criteria published as stated at the time and shall include TMA's supplier Code of Conduct form to be completed and submitted along with the tenders.
6. At the conclusion of the evaluation process, the individual pieces of work shall be awarded to the tenderer who achieves the highest overall score based on the award criteria and/or demonstrates compliance with the evaluation criteria in accordance with Section N.

### L. Procurement Processes

1. Where a framework agreement does not exist, three procurement processes are available for use, determined by the value of the contract.
2. For each relevant contract value, a procurement process that will achieve *greater competition* (e.g., open competition at \$50,000) is permitted to be used, however a procurement process that will achieve *less competition*, (e.g., restricted process at \$270,000) is not permitted.
3. Any procurement process may include a round(s) of pre-tender market engagement, prior to tenders being invited.
4. Any procurement process may include a round(s) of competitive negotiation, during the evaluation process and prior to contract award.
5. Extracts from the mobilisation plan highlighting procurement processes to be initiated shall be published on TMA's website periodically.



## Open Competition Process

### TMA Regulations – D. Procurement

#### Open competition

15. *Where a framework agreement is not available, for all contracts valued at \$250,000 or more, an open competition process shall be undertaken.*

1. An open competition begins when an advertisement is published. The advertisement shall, depending on the requirement, be published in the way in which TMA publishes tender adverts to invite tenders.
2. The advertisement shall specify basic details of the requirements, how tender documents may be obtained and contact details for further information.
3. The minimum time-period permitted for return of submissions is 21 calendar days.
4. The open competition process may include an initial pre-qualification or expression of interest stage that is in addition to and prior to the tender stage, and where it is included, the minimum time-period permitted for return of expression of interest/pre-qualification submissions is 14 calendar days.
5. Where an expression of interest/pre-qualification is followed prior to the tendering stage, the qualification criteria shall relate to the ability of suppliers to perform the contract in a satisfactory manner, given in particular (i) their recent experience with similar contracts in scope and amount, and (ii) their financial situation. Each qualification criterion shall be evaluated as either "compliant" or "non-compliant" and the corresponding requirement ("pass" or "fail"). The evaluation of the expression of interest/pre-qualification for an application shall not be based on a weighted scoring of the qualification criteria.
6. For the avoidance of doubt the expression of interest/pre-qualification stage may be followed directly by a panel presentation stage and financial offer stage, with the financial offer being invited from the highest-ranking tenderer only, without the need for a technical proposal stage.





## Restricted Process

### TMA Regulations – D. Procurement

#### Restricted competition

16. *Where a framework agreement is not available, for contracts valued at between \$30,000 and \$250,000, a restricted competition process shall be undertaken whereby a minimum of **five** bids shall be invited from nominated suppliers.*

1. The PL shall provide to the HoP a clear, robust, documented justification for the selection of each of the minimum **of five** nominated suppliers using the form provided and a written confirmation that the potential suppliers have been contacted and confirm interest in participating in the said process.
2. At HoP's discretion, the number of suppliers to a particular restricted tender process may be increased to enhance competition and this may include suppliers who have previously and successfully provided similar services to TMA.
3. The minimum time permitted for return of submissions is 14 calendar days, except in case of Goods, where the minimum time permitted for return of submissions is 7 calendar days.

## Negotiated Procurement

### TMA Regulations – D. Procurement

#### Negotiated Tendering

17. *Negotiated tendering may apply in the following exceptional cases:*

- (a) Where a competitive process, either by open competition, framework contracting, or restricted tendering has failed.*
- (b) Where funding is provided to TMA with strict delivery timelines making it impossible to undertake a tendering process using open competition, framework contracting and restricted tendering.*

1. Negotiated tendering shall be applicable under the following circumstances:
  - (a) Bids are not received in a tendering process.
  - (b) All bids received in a tendering process fail to meet the minimum cut-off requirements.
  - (c) All qualified bids fail the TMA due diligence assessment.



- (d) Strict funding timelines with project funds utilisation of 12 months or less after formal commitment of funds from donor.
2. The PL shall provide a clear rationale of the proposed service providers for the negotiated tendering process. The service providers shall possess requisite past experience and performance on TMA projects.
3. For tenders valued at US\$250,000 and above, a pre-approval of the use of negotiated tendering and proposed service providers shall be presented to TC and then CEO for consideration. HoP shall pre-approve for tenders below \$250,000.
4. The minimum number of service providers to participate in negotiated tendering process shall be three (3).
5. At the HoP's discretion, the number of suppliers to a negotiated tender process may be increased to enhance competition.
6. The minimum time permitted for return of submissions is 7 calendar days.
7. For a negotiated tendering process, bid evaluation shall be restricted to bidder's response to the proposed scope of work, proposed personnel and financial consideration.



## Single Source/ Direct Procurement

### TMA Regulations – D. Procurement

#### Single Source/ Direct Procurement

18. For contracts valued below \$30,000, a single supplier may be selected directly from the market.
19. For contracts valued at \$30,000 or more, where, for:
  - a) Intellectual property or exclusive rights reasons, or
  - b) Value for money reasons demonstrated by exceptional benefits to TMA in terms of a combination of cost, price, quality, quantity and timeliness, or
  - c) Where procured goods, equipment, technology or services needs to be compatible with existing ones, (taking into account the effectiveness of the original contract), hence the need to procure from the same supplier.that supplier may be selected for contract award subject to the prior approval of the Tender Committee and subsequently, the CEO.
20. UN bodies, UN-affiliated bodies and income generating Government Agencies may be awarded procurement contracts non-competitively where they are qualified to provide the goods, services, or works concerned, subject to the Tender Committee and then CEO being satisfied that such an award is justified and provides good value for money.

1. Single source/ direct procurement for processes above \$30,000 may be used if the process permits that one supplier may be selected without competition for intellectual property/exclusive rights reasons, value for money, or compatibility reasons. The bidder shall be required to provide a financial proposal for consideration. A brief technical proposal may also be required for assessment before a determination is made to contract the supplier.
2. The responsibility for single sourcing between \$5,000 & \$30,000 shall be managed by the Procurement Unit.
3. The HoP may delegate authority to a user department to undertake single sourcing below \$5,000. Where this provision is granted, the Portfolio Director must provide concurrence and comply with the relevant instructions and templates provided for the purpose and expenditure. Where single sourcing is delegated, the procurement unit shall be cited on the process and will be responsible for approval of the same alongside the Portfolio Director.
4. Contract amounts with a given supplier shall not exceed \$30,000 per responsibility centre, per financial year.



5. For the avoidance of doubt, single sourcing provision is applicable to firms and individual consultants. However, directors/beneficial owners shall not be eligible for single sourcing if firms that they have interest in have been contracted via single source and vice versa.
6. Suppliers shall be permitted reasonable period to submit tenders, at the discretion of the HoP, based on the complexity of the requirements.

### M. Post Evaluation Negotiation

1. Negotiation is the action of fairly discussing with a potential supplier(s) upon completion of the evaluation process and prior to contract award with the intention of improving upon the quality and/or price of the tenders received to obtain value for money.
2. Negotiation may include negotiation on any aspects of the tenderer's proposal, ToR, proposed methodology, inputs, tendered price, and/or conditions of contract.
3. Negotiation is good practice and may be carried out during establishment and/or call-off from framework agreements, open, restricted, and single-source procurement processes.
4. If incorporated, the round(s) of negotiation must be undertaken ***in a fair and transparent manner***, with ***reasonable prior knowledge*** of the tenderers that have passed technical and financial evaluation, or a shortlist of such, thus retaining probity of the procurement process.
5. If incorporated, the round(s) of negotiation, must be undertaken upon completion of the evaluation process and prior to contract award.
6. For round(s) of negotiation to be incorporated the following shall apply:
  - i. The round(s) of negotiation must commence with the tenderer with the most competitive technical and financial proposal.
  - ii. The intention to incorporate round(s) of negotiation must be stated in the invitation to tender documents or communicated to all relevant tenderers, as soon as it becomes known.
  - iii. Where they are known, the general areas/subject matter that will be the object of the round(s) of negotiation must be stated in the invitation to tender documents or communicated to all relevant tenderers, at the same time as soon as it becomes known.



- iv. The evaluation criteria that will apply during the round(s) of negotiation must be stated in the invitation to tender documents or be communicated to all relevant tenderers, at the same time as soon as they become known.

### **Undertaking Negotiation**

1. The round(s) of negotiation should be undertaken individually, with all relevant tenderers in a controlled meeting environment.
2. A minimum of three representatives, including a TMA representative from the evaluation panel, another representative and a procurement team member shall be present at all individual round(s) of negotiation with each tenderer.
3. All round(s) of negotiation that are undertaken must be comprehensively documented by the HoP and the written record of discussions agreed with each individual tenderer.
4. At all times the confidentiality of all information exchanged with individual tenderers must be wholly respected.
5. The results of the round(s) of negotiation with each tenderer shall be incorporated into the evaluation process for each tenderer in accordance with the applicable evaluation criteria.
6. The representatives conducting the round(s) of negotiation must act with the utmost integrity throughout.



## N. Tender Evaluation Process

**TMA Regulations – D. Procurement**

**Security Clearance and Donor Screening**

21. *In line with an approved national policy and a formal request by a partner Government due to the security-sensitive nature of a project, a security check may be undertaken of firms by the said Government at the Expressions of Interest (Eoi) stage. Bidders that do not obtain a security clearance will not be eligible to submit bids. Where TMA has made an agreement with a Donor for pre-screening of service providers prior to contracting, the same shall be observed and only vetted suppliers allowed to proceed to subsequent procurement processes including contracting.*

**Evaluation Process**

22. *All tenders shall be evaluated using evaluation criteria which are relevant, specific, and proportionate to the object of the procurement.*

23. *The evaluation process, criteria, and scoring methodology shall be applied to all tenders consistently, objectively, and transparently at the same time and shall not under any circumstances be altered after the tender deadline has passed.*

24. *A full description of the evaluation process, criteria and scoring methodology to be used shall be set out in the published procurement documentation.*

1. All tenders received by the published tender deadline shall be assessed, against the published selection and award criteria that shall include TMA's Supplier Code of Conduct form to be completed and submitted along with the tenders.
2. Tenders may be received in electronic format and/or paper format, as appropriate to each procurement process.
3. Each procurement process, including processes from a Framework, shall use evaluation criteria either on a 'quality-price-weighted-score' method of evaluation, or based on a 'compliant/non-compliant' method of evaluation, or a combination of the two. The method may be selected based on the goods, services and works to be procured. Exceptions to this rule will apply to framework call-offs whereby, the quality aspects have already been evaluated during framework establishment stage and the only requirement is for a financial proposal.
4. Where a 'quality-price-weighted-score' method of evaluation is used, the qualitative evaluation shall be carried out using a points system and the scores awarded may be moderated by the



- evaluation panel members. HoP will have the discretion to request for an independent bids evaluation where inconsistencies are noted.
5. Evaluation methods may include but are not limited to the tender document, supplier presentations, product and/or service demonstration, site visits and round(s) of post evaluation negotiations and TMA may shortlist tenderers between each evaluation method.
  6. The evaluation methods and shortlisting (if applicable) shall be published in advance in the procurement documentation or be communicated to all relevant tenderers at the same time as soon as they become known.
  7. The average score that is required to pass the quality evaluation and progress to the appointment to a framework agreement or to the financial evaluation is **70%**.
  8. During the evaluation process, the evaluation panel may request, within a reasonable period, for clarifications on any part of the proposals/submissions received if the information requested will not change the form or substance of the submission/proposal. The clarifications sought must only be for the purposes of expounding the content of the proposals/submissions and should not unfairly affect the competitive position of other bidders presenting proposals.
  9. References of suppliers which have been given by a current TMA employee shall not be accepted in support of the submission of a bid as part of a procurement process. For the avoidance of doubt, TMA Certificates of Assignment Completion shall only be signed by the HoP in support of applications or bids.

### **Evaluation Criteria and Weightings**

1. Evaluation criteria is further defined as *selection criteria* and *award criteria*.

### **Selection Criteria**

2. Selection criteria applies to a supplier's *general capability* and may include, but not be limited to:
  - a) information provided as to general, technical, or professional ability, including previous general experience, number, location, capability of general personnel, methodology, environmental and/or social safeguards capability, quality assurance systems, references, including registrations and/or certifications as relevant;
  - b) information provided as to the financial standing of the tenderer, including relevant financial ratios and books of accounts;
  - c) a check for disqualification in line with TMA's Supplier Code of Conduct; and



- d) any relevant supplementary information provided by the tenderer, as described in the tender documents.

### Award Criteria

3. Award criteria is *specific to each ToR* and may include but not be limited to:

#### Quality

- a) Programme/project methodology;
- b) Specific plant or equipment;
- c) Specific personnel including evidence of necessary skills;
- d) Environmental and/or social safeguards methodology;
- e) Implementation plan; and
- f) Inclusion of partnership/co-delivery with local/regional suppliers – demonstration of local content.

#### Price

- a) Cost.

#### Weightings

1. Weightings determine the relative importance of each selection criteria and/or the relative importance of each award criteria in comparison to each other.
2. In all procurement processes, except single source below \$30,000 and framework call-offs where the technical capability of suppliers has been assessed during the framework establishment process, the Quality / Price weighting (where applicable) is set using either of the ratios outlined below:

Description	Ratio 1	Ratio 2
Technical Weighting	70%	90%
Cost/Price Weighting	30%	10%

The default ratio shall be **70:30**, however under exceptional circumstances, for high complex, specialized assignments where it is difficult to define precise requirements and where input/innovation from service providers is vital, the **90:10** ratio may be applicable.

- 2.1 In call-offs from framework agreements, the weighting of price may be increased above 30%, subject to prior approval of HoP.





3. The final weighted score for each tenderer shall be calculated in accordance with the equation below, where T% + F% shall always be equal to 100%.

$$\text{Final Score} = \text{TS} \times \text{T\%} + \text{FS} \times \text{F\%}$$

Where:

**Final Score** is the total combined scores of technical and financial scores

**TS** is the overall technical score.

**T%** is the weighting given to the technical proposal

**FS** is the overall financial score

**F%** is the weighting given to the financial proposal.

### O. Evaluation Panel

#### TMA Regulations – D. Procurement

##### Evaluation Panel

25. *All submitted tenders, except for single source/direct procurement processes, shall be assessed by an Evaluation Panel appointed for the purpose. Tenders for single source/direct procurement processes shall be assessed by the PL and/or any appointee(s) by the PL who possess technical knowledge of the tender under consideration.*
26. *The composition of the Evaluation Panel shall be determined by the PL. The Panel shall comprise a minimum of three technically qualified members and where deemed necessary, external technical assistance may be onboarded to enhance the technical skills of the Panel.*
27. *To be quorate, an Evaluation Panel shall have at least three members with TMA representation having no less than 50% of the membership.*
28. *HoP shall nominate a member of the Procurement Team to act as Secretary to each Evaluation Panel, but s/he shall not be a member.*
29. *All Members of the Evaluation Panel and the Secretary shall declare any Conflicts of Interest as soon as they become known using the appropriate form. The HoP shall propose the appropriate action to be taken. Any Conflicts of Interest which are declared shall be included in the evaluation report together with action taken. Any Conflicts of Interest which are declared may be reported to the DR&C for information.*
30. *Except for single-source procurement an evaluation report shall be produced for all procurement processes undertaken to document the evaluation process and note the reasons for the selection of the preferred supplier and the non-selection of other bidders, based on the evaluation criteria and the scoring methodology. The report shall be signed by all members of the Evaluation Panel.*



1. The number of members on an evaluation panel shall not exceed five, excluding the procurement representative who is not a member of the evaluation panel. In *exceptional circumstances*, and subject to **Regulation 27**, and at the sole discretion of and with the prior approval of the HoP, the number of members of an evaluation panel may be greater than five.
2. The Evaluation Panel shall be composed of individuals who have expertise in the subject of the procurement and who can apply the evaluation criteria consistently, objectively, and transparently to all tenders received.
3. Evaluation of all tenders received, to the extent that is practically possible, should be done by the same evaluation panel throughout all stages of evaluation and be carried out during TMA's business hours.
4. Whilst the tender evaluation process is underway, no information relating to that tender process can be disclosed by the evaluation panel to anyone not involved directly in the evaluation of tenders, regardless of whether they are TMA staff, partner or beneficiary staff, donors, suppliers, tenderers, journalists, or any other party.
5. During a tender evaluation process, contact with tenderers shall be strictly limited, but where it is necessary, it must be fully documented. For the avoidance of doubt where the tenderer is also an incumbent supplier, the usual contract management activities may continue.



### P. Tender Committee, Contract Award, Standstill Period and Feedback

#### TMA Regulations – D. Procurement

##### Tender Committee (TC)

31. TMA shall establish a Tender Committee to ensure that procurement processes are undertaken in compliance with TMA procurement policies and procedures. The terms of reference for the Tender Committee shall be approved by the SLT.

##### Award decisions and contract awards

32. No contract may be entered into for which there is not a signed funding commitment to meet the total contract expenditure in full.
33. For single source/direct procurement processes above \$30,000, a single-source justification report shall be produced to justify the reasons for the selection of the preferred supplier, for presentation to the Tender Committee and subsequently, the CEO.
34. The HoP shall make a recommendation to the TC regarding the award of a contract to the preferred bidder identified by the Evaluation Panel. Before making such a recommendation, the HoP shall ensure the bidder's compliance with TMA's policies and procedures (including TMA's Supplier Code of Conduct) and the outcome of a due diligence process where applicable.
35. The Tender Committee and then CEO shall review all procurement exercises with a value of \$250,000 or more to ensure compliance with TMA policies and procedures. If TC and CEO are satisfied that TMA policies and procedures have been followed (including the outcome of a due diligence process where applicable), they will approve the award of a contract to the preferred bidder. Where they are not satisfied, TC and CEO have the right to overturn a recommendation of an evaluation process.
36. The HoP will communicate the contract award decision to the successful and unsuccessful tenderers as soon as practically possible after the award decision.
37. The HoP shall provide to the unsuccessful tenderers feedback on observations made, overall technical and/or financial scores, from the proposal and unsuccessful tenderers are permitted to raise queries or concerns with HoP or to lodge complaints upon receiving feedback on their tenders.
38. Other than with single-source contracts, immediately following the communication of the contract award decision to all tenderers, there shall be a Standstill Period of three (3) working days before a contract with the preferred bidder is signed. The Standstill Period is to allow unsuccessful tenderers to raise queries or concerns with HOP or to lodge complaints before a contract is signed.
39. All contracts issued by TMA shall be in a standard format developed by the HoP and approved by the SD\_CR.
40. All TMA contracts for goods, services and works with a value of \$250,000 or more shall be signed by the SD\_CR. The SD\_CR shall only sign such contracts if TC has recommended that s/he should do so.
41. Contracts for goods, services and works with a value of less than \$250,000 shall be signed by HoP and contracts between \$5,000 and \$30,000 shall be signed by the Procurement Manager.



### Tender Committee

1. The TC shall review all procurement processes leading to the award of a framework agreement with a total value of \$250,000 or more and all procurement processes related to contracts (including contracts let under framework agreements) with a value of \$250,000 or more.
2. In reviewing a procurement process, the Tender Committee shall determine that:
  - i. The procurement process was advertised (as appropriate).
  - ii. The basis for disqualification of any bidder is fair;
  - iii. The evaluation criteria and/or weightings have been applied as agreed; and
  - iv. The award decision was not unreasonable.
3. The Tender Committee has authority to:
  - i. Issue a “no objection”, which may be conditional or qualified, to the award of a contract following a procurement exercise, or to the use of partner-led procurement process or an award of a grant following a competitive grant exercise.
  - ii. Commission an independent evaluation or due diligence review of any procurement exercise; and receive the report of the due diligence for consideration and decision on action to be taken.
  - iii. In the case of single-source contracts valued between \$30,000 and \$250,000, give prior approval for contract award, and single-source contracts valued at \$250,000 or more, referral to the CEO for approval.
  - iv. Pre-approve the use of brand names in ToRs for tenders valued at \$250,000 and above.
  - v. Pre-approve the use of negotiated tendering and the proposed service providers for tenders valued at \$250,000 and above.
  - vi. Receive the report of the due diligence process for consideration and decision on actions to be taken including issuing a no objection for a process with a positive outcome and a rejection for process with a negative outcome.
  - vii. Receive the justification for debarment for review and decision, and/or referral to the Board for decision.
  - viii. Review any exception to the procurement policy and make recommendations for the improvement of and offer an opinion on any aspect of the said policies or procedures.
  - ix. Consider any comments made by the Risk & Compliance Unit about the process under consideration prior to reaching a decision; and
  - x. Offer an opinion on any matter brought to it by the HoP.
4. Furthermore, the TC shall be informed of, all procurement exercises with a value of \$250,000 or more that have been abandoned or failed, for any reason, to understand the circumstances, record lessons learnt and where necessary, improve practice.



5. Following the TC stage, all TC decisions shall be reviewed by the CEO for a no-objection. Following receipt of the CEO's no-objection, the award decision shall be communicated to the tenderers.
6. TMA may, where it becomes necessary, award a contract to the second placed tenderer, throughout a period of up to a maximum of 12 months from the original date of tender submission, in the case where the contract value is greater than \$250,000, subject to the prior approval of TC and in the case where the contract is less than \$250,000, subject to the prior approval of HoP.
7. Prior to commencement of TC meetings, all TC members shall declare any conflicts of interest to the agenda under consideration. If a member is conflicted, the same shall be noted, and the member concerned shall not participate in the Committee's consideration of the item(s) to which the conflict relates.
8. For single sourced contracts above \$250,000 the awarding body is TC and then CEO.
9. For contracts below \$250,000 the awarding body is HoP.



### Feedback to unsuccessful suppliers

1. The feedback to unsuccessful suppliers shall be communicated in writing in the first instances and may be supplemented via telephone or at a meeting and shall be communicated in such a way as to encourage the unsuccessful tenderers to participate in future tender opportunities.
2. HoP shall provide reasonable responses to any clarification raised during the stand still period. If a bidder is dissatisfied with the responses provided by HoP, they shall formally complain using the complaints procedure.
3. At the expiry of the standstill period, and subject to no valid complaints or legal challenges the contract may be confirmed and signed with the successful tenderer.

### Q. Due Diligence

#### TMA Regulations – D. Procurement

##### Due Diligence

42. *Prior to the award of a contract, all provisionally successful suppliers shall undergo a bidder screening process, for compliance with TMA Supplier Code of Conduct.*
43. *A Due Diligence is an independent review conducted to establish the veracity of statements made in the submitted bid regarding previous experience, capability, key personnel, organisational structures, key policies, or any other aspect of the supplier's bid. A Due Diligence review would supplement the usual checks undertaken as part of the evaluation process.*
44. *A Due Diligence Review shall be undertaken of any new contractor (that is, all contractors who have not previously been awarded a contract by TMA) who are to be awarded contracts valued at US\$250,000 or more before the no objection of the Tender Committee is sought. In addition, the Tender Committee may commission a Due Diligence review, for any purpose, at any time it sees fit.*
45. *The Governance, Risk and Compliance (GRC) team shall undertake Due Diligence on suppliers at the establishment of framework contracts and for tenders below US\$250,000 prior to contract award. At its discretion, the GRC team may initiate an external Due Diligence process for frameworks depending on the nature of the assignment.*
46. *The report of the due diligence exercise (for the TC threshold) shall be received by HoP who shall subsequently submit to TC for consideration and decision on action to be taken.*



1. For assignments where there is a main contractor and sub-contractors, it is the responsibility of the main contractor to ensure that the sub-contractors comply with TMA policy on the Supplier Code of Conduct.
2. In all cases the due diligence (DD) audit shall be treated as a project cost and budgeted for as such by the PL.



**R. Contract Management and Supplier Performance Improvement**

**TMA Regulations – D. Procurement**

**Contract Management and Supplier Performance**

47. *The PL shall communicate at least monthly with each supplier to manage project progress and expenditure and identify and resolve issues.*

48. *For each contract with a value of \$250,000 or more and which has a life of more than six months, the PL shall ensure that quarterly contract management meetings take place at the site of project delivery or at a TMA office and are documented.*

49. *Every instance of poor performance shall be raised with the supplier at the earliest opportunity.*

50. *Upon request from the PL, HoP may, where s/he believes there are compelling reasons for an extension, issue contract amendments but such amendments shall not increase the value of the original contract by more than 20% or, in the case of contracts with a value of less than US\$250,000, by 100% provided that the amended value of the contract does not exceed US\$250,000 in total.*

51. *For contracts above USD 250,000, upon request from the PL, HoP may, where s/he believes there are compelling reasons for an extension of more than 20% of the original contract value, submit the request to TC and then CEO for their consideration and approval.*

52. *Where a PL wishes to extend a contract (either at cost or no cost), the extension shall be completed before the end date of the contract. No expired contract shall be extended. Retrospective waivers under exceptional circumstances must be approved by the TC and then CEO. Any such waiver request must be reported to the Internal Audit Director by the responsible PL for investigation.*

53. *Contracts shall not be extended more than twice. Any exception to this rule shall require TC and then CEO approval and the PL will provide a compelling justification for the proposed extension. Where renewable contracts are issued subject to funding availability and performance of an individual or firm, this shall be indicated in the contract and will, therefore, not be subject to the two-time limitation of extension.*

54. *At the end of each contract, the PL shall undertake a contract close-out exercise to document the performance of the supplier on the contract, to record lessons learnt, and to process any final payment.*

1. Suppliers are contractually obliged to deliver the goods, services, or works as per the signed contract, at the expected standard of quality, performance, E&SP and SIT outcomes and price. Failure to do so may lead to breach of contract.





2. Contract Management is the action of pro-actively working with the successful supplier to ensure that the expected standards are met throughout the life of the contract.
3. Failure to manage the contract properly may lead to poor standards of work, budget overruns, project delays, poor results, failure to achieve E&SP and SIT outcomes and/or failure to achieve value for money.
4. Every contract shall be managed by the PL who shall have a detailed knowledge of the contract and the HOP shall support the PL in contract management activity as required.
5. PLs' shall maintain a Contract Management Plan that shall be used to record contract management actions and to improve supplier performance the form of which shall be proportionate to the risk and value of the contract.
6. For each contract, the PL and HoP shall determine the appropriate level of contract management that shall be undertaken, based on the risk and value of the particular contract, meeting at least the minimum requirements stated in this PPM and the PCM Guidelines.
7. Payments to suppliers shall be made promptly, based on either input, outputs, deliverables, or achievement of results, and based on the agreed payment schedule in line with the contract.

### **Contract Inception Meeting**

1. Where deemed necessary, contracts shall have an inception meeting led by the PL to explain the contract requirements, clarify any minor outstanding matters, agree the deliverables/milestones/payment terms, agree how the contract will work in practice and to sign-off the contract management plan.
2. The contract inception meeting shall take place with the supplier within two weeks of contract signing or framework award.

### **Contract Management Plan**

1. Every contract including every establishment of a framework agreement, shall have a contract management plan for each supplier, developed by the PL, the form of which shall be proportionate to the risk and value of the contract.
2. The contract management plan shall set out:
  - i. The deliverables/milestones, phasing and payments agreed at the Contract Inception Meeting and stated in the TOR and contract.
  - ii. The named contact points from TMA, the Partner and the supplier.



- iii. The form and frequency of contract management meetings and the standard agenda topics that shall be discussed.
- iv. The way relevant milestones will be measured and reported.
- v. The practical process of escalation in the event of disagreement/dispute; and
- vi. Any other relevant information.

### **Quarterly Operational Meeting**

1. The PL together with HoP and the supplier shall discuss project progress, budget, stakeholders, supplier performance, partner satisfaction, results, issues and their resolution and next steps and may use any performance data to support the discussion and to track progress and the meeting shall be documented.

### **Six-Monthly Strategic Meeting**

1. For each contract with a value of \$250,000 or more and which has a life of more than twelve months the PL and HoP shall ensure that a six-monthly strategic meeting is undertaken, in addition to the quarterly operational meeting.
2. The PL shall include the HoP and senior TMA colleagues as appropriate and the supplier shall include senior staff, as appropriate.
3. The PL, HoP and supplier shall discuss the overall direction, project progress, budget, stakeholders, supplier performance, partner satisfaction, results, issues and their resolution and next steps and shall restate direction for the forthcoming six months and may use any performance data to support the discussion and to track progress.
4. The six-monthly meeting shall take place at the site of project delivery or if not possible, at a TMA office and the meeting shall be documented.

### **Close-Out Exercise**

1. As part of project implementation each supplier shall be subject to a supplier performance close-out exercise, and this shall include a close-out meeting.
2. The supplier performance close-out exercise shall be carried out by the PL and as part of the exercise, shall document the performance of the supplier on the contract and process any final payment. The close out exercise shall refer to observations from the quarterly and six-monthly meetings as appropriate.



### **S. Contract Extension and Amendments**

1. From time to time during the life of the contract and/or at the end of the contract the PL and/or supplier may request reasonable cost changes and/or time changes, to accommodate changes in project scope and/or project time provided those changes do not increase the value of the original contract by more than 20% with the exceptions highlighted in Regulations D50 above.
2. In each case the PL shall provide to the HoP, a clear, robust, documented justification for the time and/or cost extension using the form provided and confirming the budget.
3. If the request for an extension comes at the end of the contract the justification shall be provided at least one month before the expiry date of the contract.
4. For the avoidance of doubt, this rule also applies to contracts awarded via a Framework.
5. The contract extension amendment shall be signed by the holder of the same post that signed the original contract.

### **T. Managing Supplier Performance**

1. From time to time, it may become necessary to manage poor performance of the supplier.
2. The PL shall, with support from HOP and CDM, raise every instance of poor performance with the supplier at the earliest opportunity, and both parties shall work together to resolve matters as soon as possible and shall not wait until the quarterly and six-monthly contract management meetings.
3. The PL, HoP and CDM and supplier shall agree an action plan to address the poor performance as quickly as possible and the supplier shall be given a reasonable period to improve.
4. The PL shall monitor progress against the action plan and take any corrective steps with the supplier as necessary.
5. The PL shall ensure that all discussions with the supplier are documented, and that the poor performance is recorded at the operational and strategic contract management meetings.
6. In exceptional circumstances where the supplier demonstrates persistent poor performance the PL may, with support from HoP and CDM, terminate the contract in accordance with the contract terms and conditions and may consider future debarment of the supplier (Section V).



### U. Complaints

#### TMA Regulations – D. Procurement

##### Complaints

55. *Complaints from bidders, contractors, or other third parties must be sent to the Complaint Committee via the email address, [complaints@trademarkafrica.com](mailto:complaints@trademarkafrica.com).*

56. *Efforts will be made to resolve all complaints internally in the first instance through discussion. Where this is not possible, the complainant may re-submit their complaint and it will be submitted to the Complaints Committee of the Board*

1. Any questions, queries or concerns about the procurement process should be raised directly with the HOP in the first instance via [procurement@trademarkafrica.com](mailto:procurement@trademarkafrica.com) , who will address the matters raised.
2. If the matter is not satisfactorily resolved, the complainant is encouraged to write to [complaints@trademarkafrica.com](mailto:complaints@trademarkafrica.com) .



### V. Debarment Policy

#### TMA Regulations – D. Procurement

##### Debarment Policy

57. *TMA may decide to debar a supplier where there is demonstrable evidence of:*
- a) *The supplier undertaking unethical, illegal, corrupt, or fraudulent activities in connection with a TMA contract or a TMA-funded contract; or*
  - b) *Persistent poor performance by the supplier under a TMA contract or a TMA-funded contract in terms of quality of work or goods delivered, including consistently late delivery.*
58. *TMA shall not contract any supplier who at the time has been debarred by a TMA donor, the World Bank, or a Government with whom TMA has a Memorandum of Understanding.*
59. *For the avoidance of doubt regarding the reference to “supplier” in Regulation D57 and D58, TMA may debar any company, any director or directors of a company, any sole trader, or any individual, as the circumstances may require.*

1. In exceptional circumstances it may become necessary to debar a supplier from future tender opportunities.
2. In these circumstances and prior to debarment, an independent assessment shall be undertaken providing a clear, robust, documented evidence for the debarment of the supplier and the same shall include the reasons for the debarment, evidence of the management of poor performance (including the agreed action plan), the supplier’s explanation, the reasonable period of time given for improvement, corrective steps taken and the supplier’s continued failure to improve.
3. The justification for debarment shall be received by TC who shall subsequently submit to the Board for decision and the Board shall report the debarment decision to the Donors.
4. HoP shall communicate the debarment decision to the debarred supplier as soon as practically possible.
5. The HoP shall maintain a database of all debarred suppliers and the HoP shall periodically communicate the information across TMA to ensure that all colleagues have an up to date understanding of the TMA debarred list.



### **NOTES:**

1. Should there be any contradiction between the PPM and other TMA policy documents pertaining to the procurement cycle, the PPM shall take precedence.
2. The procurement **flow charts**, and **work instructions** shall be annexed to the Procurement Procedure Manual and form an integral part of the document.
3. Annexes to the PPM shall be amended from time to time to respond to the changing procurement requirements. Such changes will not require Board approval.
4. Any contravention of the PPM Guidelines by TMA staff may lead to disciplinary action in accordance with the HR Policy.

END