REPUBLIC OF KENYA

THE NATIONAL TREASURY AND PLANNING

FINANCING LOCALLY–LED CLIMATE ACTION PROGRAM

IDA V 319 – KE (P173065)

PROGRAM IMPLEMENTATION UNIT

PROCUREMENT MANAGEMENT MANUAL

(ANNEX 1 TO THE PROGRAM OPERATIONS MANUAL)

SEPTEMBER 2021

ABBREVIATIONS AND ACRONYMS

CBO	Community Based Organisation
CCD	Climate Change Directorate
CFM	Complaints and Feedback Mechanism
CFU	Climate Finance Unit
FLLoCA	Financing Locally Led Climate Action
CoG	Council of Governors
GRM	Grievance Redress Mechanism
GoK	Government of Kenya
GPN	General Procurement Notice
KCCP	Kenya Climate Change Portal
KCCKP	Kenya Climate Change Knowledge Portal
KDSP	Kenya Devolution Support Program
M&E	Monitoring and Evaluation
MDA	Ministries, Departments and Agencies
MLSP	Ministry of Labour and Social Protection
MoU	Memorandum of Understanding

NCCAP	National Climate Change Action Plan
NEMA	National Environment Management Authority
NIMES	National Integrated M&E System
NT	National Treasury
NT SCM	National Treasury Supply Chain Management
PAD	Project Appraisal Document
PDO	Project Development Objective
PforR	Program for Results
PIU	Program Implementation Unit
POM	Project Operation Manual
PPADA	Public Procurement and Asset Disposal Act 2015 revised 2016
PPADR	Public Procurement and Asset Disposal Regulations ,2020
PPRA	Public Procurement Regulatory Authority
PPSD	Program Procurement Strategy for Development
PS	Principal Secretary
PSC	Program Steering Committee
REOI	Request for Expressions of Interest
RFP	Request for Proposals

RFQ	Request for Quotation
SEA	Sexual exploitation and Abuse
SOP	Standard Operating Procedure
SPN	Specific Procurement Notice
SPDs	Standard Procurement Documents
SRM	Social Risk Management
STEP	Systematic Tracking of Exchanges in Procurement
TA	Technical Agencies
UNDB	United Nations Development Business
UNFCC	United Nations Framework Convention on Climate Change
WB	World Bank
WCCPCs	Ward County Climate Change Planning Committees
WPBCs	Ward Planning and Budgeting Committees

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INTRODUCTION

1. This Procurement Management Manual describes the detailed procurement procedures to be followed under the Program and outlines the various steps to help TNT/PIU staff in conducting procurement processes under the Financing Locally Led Climate Action (FLLoCA) program.
2. This manual describes the procedures and the established controls for procurement to be undertaken under the Program. Procurement management will follow procurement procedures that are intended to provide guidance on the individual stages of the procurement process when conducting procurement under FLLoCA, for the purpose of achieving the following World Bank Procurement core principles:
    i) Value for money,
    ii) Economy,
    iii) Integrity,
    iv) Fit for purpose,
    v) Efficiency,
    vi) Transparency; and
    vii) Fairness.
3. The Procurement Management Manual is primarily intended for public procurement practitioners, providing them with a suitable tool to ensure an efficient and consistent practice of the public procurement procedures.
4. The Program development objective is to deliver locally-led climate resilience actions and strengthen county and national governments' capacity to manage climate risks.

5. The Program will be implemented as a hybrid Program for Results (PforR)/Investment Project Financing (IPF). The PforR component will support the GoK's program to address climate change at the county level by financing climate resilience actions and increasing CGs' climate risk management capacities, while the IPF component will support climate risk management capacities at the national level.
6. The counties and local communities will procure and implement climate resilience actions under the PforR component in accordance with the National Public Procurement Procedures laid out in the PPADA and the attendant Public Procurement and Asset Disposal Regulations (PPADR, 2020).
7. Procurement under the IPF component will be carried out in accordance with "World Bank Procurement Regulations for IPF Borrowers for Goods, Works, Non-Consulting and Consulting Services, dated July 2016 and revised in November 2017, August 2018 and November 2020" and the World Bank's Anti-Corruption Guidelines, dated October 15, 2006, revised in January 2011 and July 1, 2016.

8. The Procurement Management Manual (PMM) is an Annex to the Program Operations Manual (POM).

Purpose and Objectives of the Procurement Management Manual

9. The purpose of this manual is to provide the Program with guidelines on the standards for procurement management in order to ensure effective use of resources. The general objectives are to:
    - Provide an outline of key internal control requirements to be established by the program

- Enhance consistency in recording and classifying of procurement transactions
- Ensure consistent procurement reporting over the span of the program
- Provide quick reference for program management, other staff members and partners including donors and government agencies including internal and external auditors.
- To provide procurement guidelines at both county and national level in running the program activities.

Scope of the Manual

10. This manual outlines the procurement management policies, procedures and guidelines for use by the program at county and national level, community participation and by relevant MDA`s, CSO involved in the Program.

Organization of the Manual

11. This manual is divided into sections. Relevant annexes are provided at the end of the manual.

Responsibility for the Manual

12. The Program Implementation Program Coordinator – FLLoCA and the Procurement Unit is responsible for maintaining the accuracy of the information in the manual and for ensuring that it is updated as and when necessary.

Revisions to the Manual

13. The Manual may require revisions from time to time to accommodate:
    - Changes in enacted legislation
    - Changes in the Program`s Procurement Policies

- Emerging issues such as Covid-19

As and when revisions are made to the manual, the replaced sections of the manual shall be removed and destroyed. An index of changes will be issued with every set of revisions.

SECTION 1: PROCUREMENT LEGAL FRAMEWORK

1.1 Legal framework

14. Under the IPF component, the World Bank procurement regulations and the Bank`s Anti-Corruption Guidelines and Sanctions Framework and contractual remedies will apply as set out in the Legal Agreement. When approaching the national market, the country`s own procurement procedures may be used, as specified in Paragraphs 5.3 to 5.6 of the World Bank procurement Regulations. Under the PforR component the procedures set out in the PPADA; Public Procurement and Asset Disposal Regulations (PPADR), 2020 shall be followed. The PPADA sets out the rules and procedures of public procurement by ministries, departments, agencies, and CGs and provides mechanisms for enforcement of the law. Under the PPADA, the Public Procurement Regulatory Authority (PPRA) has been established in addition to the Public Procurement Directorate at the National Treasury (NT). The PPRA has oversight and regulatory functions, including undertaking procurement reviews and audits. There is a Public Procurement Complaints Administrative Review and Appeals Board (Appeal Board) under the secretariat of PPRA that deals with complaints received from bidders or consulting firms in this category of national market approach.

15. The Program recognises that the Parliament passed the Supplies Practitioners Management Act 2007, a legislation that governs procurement and supply chain practices both in the private and public sectors in Kenya. The Act establishes the Kenya Institute of Supplies Management (KISM) as the professional body responsible for professional development of members of the Institute. Legal Notice No. 60 of 2013 defines, Procurement Entity's operating in the counties, as the County Government and designated

county entities; the County Assembly, the City and urban area; and the National Service Delivery Coordinating unit.

16. For the IPF component, contracts that attract international market approach will follow the World Bank`s “Procurement Regulations for IPF Borrowers for Goods, Works, Non-Consulting and Consulting Services, dated July 2016 and revised Nov 2017, July 2018 and Nov 2020”, hereafter referred to as “Procurement Regulations.” will be utilised. Procurement will be done using the World Bank’s Standard Procurement Documents (SPD).

17. The program will also be subject to the World Bank’s Anti-Corruption Guidelines, dated October 15, 2006, revised in January 2011 and July 1, 2016.

1.2 Eligibility and Qualification

18. To ensure contracts are delivered in a timely manner, of the required quality and within budget, evaluation of the eligibility and qualification of suppliers, contractors and consultants of goods, works and services, will be an integral function of the program`s procurement process.

1.2.1 Eligibility

19. Eligibility conditions are spelt out in the Bank Procurement Regulations, SPD and the FLLoCA Financial Management Manual.

1.2.2 Eligibility of Suppliers, Contractors and Consultants.

20. Procurement contracts shall not be awarded to suppliers, contractors and consultants who are not eligible for award of contracts. The Procurement unit must ensure that they

maintain an updated list of firms and individuals debarred by Public Procurement Regulatory Authority (PPRA) and the World Bank from participating in and/or award of public contracts.

21. Dissemination of procurement information: the PIU and Counties shall publicise on websites and notice boards procurement results regarding contract awards, procurement plan, contracts being implemented and firms that have been debarred by PPRA and the World Bank. The list of debarred firms and individual consultants can be found at https://www.worldbank.org/debarr and www.ppra.go.ke**.**

22. Firms and individuals with no legal capacity to enter into a contract, are bankrupt, insolvent or are under receivership or in the process of being wound, have a conflict of interest are ineligible for award of contracts. Preference and Reservations in national public procurement procedures may cause ineligibility but these are not allowed under the World Bank-financed projects. State-owned enterprises (SOEs) or institutions in Kenya may be eligible to compete and be awarded contracts in Kenya only if they can establish, in a manner acceptable to the Bank, that they:

    i. are legally and financially autonomous;
    ii. operate under commercial law; and
    iii. are not under supervision by the agency contracting them.

23. It is generally accepted that Government Institutions can be used for holding training seminars and workshops, provided they are assessed to be more economical than private institutions (Hotels and Conference facilities).

1.3 Ineligibility of firms Blacklisted due to Fraudulent and Corrupt Practices

24. It is a requirement of the Government of Kenya and the World Bank that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub consultants, service providers or suppliers; any agents (whether declared or not); and their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption. The provisions of Annex VI the Bank`s Regulations and the PPADA shall apply in regard to blacklisting of firms and individuals.

1.4 Handling Procurement Complaints

25. Administration of procurement related complaints arising in connection with contracts where the Bank's Standard Procurement Documents (SPDs) have been used, and those following international market approaches shall follow the provisions of Annexes II and III of the Bank's Procurement Regulations for IPF Borrowers, dated July 2016 revised November 2017, July 2018 and November 2020.
26. Procurement related complains shall be addressed to the Program Coordinator. A committee shall be appointed by the Accounting Officer, to handle all procurement related complaints
27. The complaints shall be recorded in a complaint register indicating;
    a) when the complaint was received
    b) nature of complaint
    c) when the Committee met to address the complaint
    d) Action taken regarding the complaint

e) Feedback on the decision (if any)

f) The complaints may be received through any medium such as physical appearance, complaints box, email, telephone call or anonymous.

28. Contracts following national market approach shall be governed by the provisions set out in the PPADA under Part XV Administrative Review of Procurement and Disposal Proceedings.

1.5 Misprocurement

29. If the Bank determines that the Borrower has not complied with the procurement requirements set out in the Legal Agreement, the Bank may, in addition to exercising the legal remedies set out in the Legal Agreement, take other appropriate actions, including declaring misprocurement (for example, due to the failure to address complaints in accordance with applicable requirements).

30. Even once the contract is awarded after obtaining a no objection from the Bank, the Bank may still take appropriate actions and exercise legal remedies, regardless of whether the Program has closed or not, if it concludes that the no objection or the notice of satisfactory resolution was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower or the terms and conditions of the contract had been substantially modified without the Bank's no objection.

31. Misprocurement arises when a contract is not awarded in accordance with the agreed procedures. The Bank does not finance expenditures under a contract for goods, works, or services (consulting and non- consulting) if the Bank concludes that such contract:

(i) Has not been awarded in accordance with the agreed provisions of the Grant Agreement and as further elaborated in the Procurement Plan to which the Bank provided no objection;

(ii) Could not be awarded to the bidder otherwise determined successful due to wilful dilatory conduct or other actions of the Borrower resulting in unjustifiable delays, the successful bid being no longer available, or the wrongful rejection of any bid; or

(iii) Involves the engagement of a representative of the Government, or a recipient of any part of the Grant proceeds, in fraud and corruption.

32. In such cases, whether under prior or post review, the Bank will declare misprocurement, and it is the Bank's policy to cancel that portion of the loan allocated to the goods, works, or non-consulting services that have been misprocured.

1.6 Disposal

33. Disposal of unserviceable stores equipment and assets; while disposal of surplus/ obsolete supplies and equipment and unserviceable equipment is a normal function of the National Treasury, no provision for disposal has been made in the Grant Agreement. In event that some items financed by the program become unserviceable, a need for disposal will arise. Disposals will follow the procedures established in the PPADA.

SECTION 2: PROCUREMENT PLANNING

2.1 Introduction to Procurement Planning

34. Procurement planning is a mandatory requirement for public procurement and for the World Bank funded projects. A Procurement plan will be prepared and cleared by the World Bank prior to initiating any procurement. The Procurement Plan should reflect activities contained in the Work Plan and should cover a period of 12 months following Government budgeting cycle of July1 to June 30, but completion dates of some contracts may flow into the following year(s).
35. The Procurement Plan should define the goods, services and consultancies that will be undertaken including the estimated cost of the proposed contracts, procurement method to be followed, and the estimated timelines for completion of critical stages such as preparation of bid/proposal documents, bid/proposal opening, contract signature and completion).
36. Early involvement of the user departments in timely provision of the specifications and any commercial considerations and ensuring the availability of adequate human skills/capacity required for processing procurement contracts and their supervision, should be a priority in the Program. The Procurement plan should be consolidated by the Procurement Unit in the format provided in Annex 4 – Procurement Planning Template with modifications as deemed necessary. Splitting of contracts to avoid some procurement methods is not allowed.
37. The preparation of the procurement plan should have data and information on:

    The items to be procured (separately for goods, works and services, estimated quantity and identification of source, etc.);

- The date when the goods. works or services would be required (a month, Financial year);
- The identification of individuals that would be involved in the procurement process, at what level and the area of responsibility;
- The appropriate procurement method that should be used, and whether the contract requires World Bank prior review;
- The expected start of the procurement process based on the proposed completion date of the activity so that the lead time to process the procurement step can be determined; and

38. The PIU shall use the Bank's online procurement planning and tracking tool Systematic Tracking of Exchanges in Procurement (STEP) to prepare, clear and update its Procurement Plans and conduct all procurement transactions for the IPF Component.
39. All Procurement Plans will be publicly disclosed in accordance with the World Bank Group disclosure policy.
40. The Procurement Plan should have realistic dates for completing procurement processes based on the selection method and the thresholds and market approach.

Table 1: Procurement processing times based on Request for Quotation for Goods and works contracts

	Procurement activity	Responsible Office	Estimated lead time in weeks
1.	Prepare specifications and other user requirements	User Department/ Procurement Unit	2
2.	Prepare an RFQ document	Procurement Unit	1
3.	Invite for quotations	Procurement Unit	1
4.	Evaluate Quotations	Evaluation Committee/ Procurement Unit	1
5.	Approval of the bid evaluation report by the Procurement or Accounting Officer	Accounting Officer	1
6.	Approval of the draft contract by the Accounting or Procurement Committee	Accounting or Procurement Committee/ Procurement Unit	1
7.	Sign contract/place order and Mobilize contractor or supplier	Accounting Officer / Procurement Unit	1
8.	Contract implementation to completion and Inspection and acceptance	User Department/ Procurement Unit	2-12

Table 2: Procurement processing times based on ICB Goods contracts

	Procurement activity	Responsible Office	Estimated lead time in weeks
1.	Prepare specifications and other user requirements	User Department/ Procurement Unit	2
2.	Prepare Bidding Documents	Procurement Unit	2
3.	WB's no objection to Bidding Documents	Procurement Unit/WB	1
4.	Advertise and receive bids and open bids	Procurement Unit	5
5.	Evaluate bids Bid/Proposal	Evaluation Committee/ Procurement Unit	2
6.	Professional Opinion/Advise	Procurement Unit	1
7.	Approval of the bid by the Accounting Officer	Accounting Officer / Procurement Unit	2
8.	WB's no objection to bid evaluation report	Procurement Unit/WB	1-2
9.	Notification to Intention to Award (Standstill period)	Procurement Unit	2
10.	Notification of proposed contract award and prepare contract documents (done simultaneously)	Procurement Unit	2
11.	Sign contract	Accounting Officer / Procurement Unit	1
12.	Mobilize supplier	User Department/ Procurement Unit	3
13.	Contract implementation to completion	User Department/ Procurement Unit	4-36
14.	Inspection and acceptance	User Department/ Procurement Unit	1-2

Table 3: Procurement processing times based on Quality Cost Based Selection

	Procurement activity	Responsible Office	Estimated lead time in weeks
1.	Prepare TORs, cost estimates and other user requirements	User Department/ Procurement Unit	2
2.	Advertise for EOI/prepare RFP (simultaneously	Procurement Unit	3
3.	Short listing of firms	Procurement Unit	1
4.	WB's No-Objection to Short listed firms	Procurement Unit/WB	1-2
5.	WB's no objection to RFP	Procurement Unit/WB	1-2
6.	Invite for proposals	Procurement Unit	4
7.	Prepare technical evaluation report	Proposal Evaluation Committee/ Procurement Unit	2
8.	WB's no objection to technical evaluation report	Procurement Unit /WB	2
9.	Open financial proposals, prepare a combined technical/price evaluation report	Proposal Evaluation Committee/ Procurement Unit	1-2
10.	Contract negotiations leading to a proposed contract award	Proposal Evaluation Committee/ Procurement Unit	1
11.	Approval of the negotiated contract by the Accounting Officer	Accounting Officer/ Procurement Unit	2
12.	WB's no objection to the negotiated contract	Procurement Unit/WB	2
13.	Notification to Intention to Award (Standstill period)	Procurement Unit	2
14.	Notification of proposed contract award and prepare contract documents (done simultaneously)	Procurement Unit	2
15.	Sign contract Accounting Officer	(NT/ Procurement Unit	1
16.	Mobilize consultant	User Department/ Procurement Unit	3
17.	Contract implementation to completion	User Department/ Procurement Unit	4-36
18.	Inspection and acceptance/finalization	Department/ Procurement Unit	2

2.2 Procurement Plan Implementation Monitoring.

41. Regular Procurement Plan monitoring enables the Procurement unit to proactively undertake remedial actions when delays are experienced. The Program Coordinator should spear head procurement plan monitoring on a monthly basis, between the procurement unit and user departments in order to come up with recommendation and mitigation strategies on any risk identified. Procurement Plan monitoring provides a measure on planned versus actual performance. If need be necessary changes can be made on the plan to include new items and or to remove the items whose need no-longer exists. A full revision and update of the Procurement Plan should be done mid- and end of year by the Accounting Officer, Steering Committee and forwarded to the World Bank for review and comments/ approval. At the beginning of the fiscal year a new procurement plan which incorporates any contracts carried over to the next fiscal year is necessary.

2.3 Procurement Planning Process

42. Procurement Planning under FLLoCA will require consideration of the hybrid approach of executing procurement within the Program (IPF Component and PforR). Procurement planning must endeavour to award, complete and conclude payment of contracts within a Financial Year. In this regard, FLLoCA shall take the following timelines into consideration: -

    i) The GoK Financial Year (July to June) is also the planning and operational year of the Program, given that program funds will be utilized as per the Government budget (PforR)

    ii) A Procurement Plan (PP) derived from an Annual Work Plan and Budget (AWP/B). The AWP/B prepared by the Program Coordinator must tally with preparation of Government Budget Estimates for Parliamentary approval. Activities that are captured in the procurement plan are derived from the AWP/B. The AWP/B and Procurement plan should be completed by April 30 and finalized by July 31.

iii) While some contracts may be multi-year contracts, running over more than one year, the majority of contracts should be completed within the fiscal year of the plan. Processing contracts can start earlier than July 1, but contracts can only be signed after July 1 when the budget is approved by Parliament. To the extent possible, contracts should be completed, and final payments made by June 30 (end of fiscal year).

2.4 Procurement Planning Phases

2.4.1 Procurement Planning & Requisition

43. The process shall start with preparation of procurement requirements extracted from the AWP/B (if any) or from budget estimates and approved by the Accounting Officer. A Purchase Requisition approved by the Head of the User department, Head of Finance department and Head of Procurement Function shall initiate each specific procurement process. The requisition shall give detailed specifications and/requirements for the goods, services and works.

2.4.2 Sourcing - Tender Documents preparation & Invitation for Bids

44. The Procurement unit shall prepare the tender document(s) for the respective approved procurement taking into cognizance the standard tender documents prescribed by PPRA. The tender documents shall contain sufficient information to allow fair competition among those who may wish to submit tenders. The invitation notice or letter must state

where the tender documents shall be issued, where they should be deposited, how they should be addressed, how many copies are required and the time when bids shall be opened, amongst other information prescribed in the PPADA. Where applicable, the bidders may be requested to submit with their bid, a bid security of an absolute amount but not exceeding 2% of the estimated total cost of the tender. The invitation notices for each respective procurement method shall be carried out as prescribed in the PPADA and PPADR, 2020. All candidates in the subject procurement must be recorded in the tender sale register and/or quotation register with evidence that they collected/downloaded bid documents.

45. Communication with the potential bidders shall be in writing. Bids shall be submitted as explained in the invitation notice or letter. The procurement unit shall open the procurement file for the subject procurement, which shall contain a part of the approved procurement plan where the subject procurement appears; the purchase requisition; copy of the invitation notice; and a blank bidding document. The AO shall appoint a tender opening committee including a representative from the user department. Submission of bid documents whether in electronic or manual form, shall be in writing, signed and in the case of manual submission, they shall be sealed in an envelope (process well explained in the bid document) The bid opening procedure shall be as outlined in the PPADA and PPADR, 2020.

46. The evaluation committee appointed by the Accounting Officer shall evaluate and compare the bids submitted. The Secretary of the Evaluation Committee shall be the Procurement Specialist, or an officer recommended by the Head of Supply Chain Management services, NT. Evaluation shall be based on the evaluation criteria spelt out in

the bid document and no other criteria shall be introduced. The Evaluation Committee shall deal with the technical, financial, and/or negotiation of bids, proposals for prequalification, registration lists, Expressions of interest and any other roles assigned to it. The evaluation committee shall prepare an evaluation report as prescribed in PPADA and PPADR, 2020. The Committee shall submit the report to the person responsible for procurement for his or her review and recommendation. The person responsible for procurement shall, upon receipt of the evaluation report review the evaluation report and as secretariat comments, provide a signed professional opinion and submit the report to the Accounting officer for review and approval.

47. The PIU will be requesting for approvals from the Accounting Officer through the Head Supply Chain Management Unit who will provide a Professional Opinion as per the Public Procurement Asset & Disposal Act 2015 revised 2016 for Shortlists, Technical Reports and Award for Contracts that will be in compliance with the World Bank Procurement Regulations and for the Appointment of Committees including Evaluations, Negotiations, Tender Opening and Contract Implementation Teams.

48. The Accounting Officer reviews the evaluation report together with the signed professional opinion. The Accounting Officer either approves, rejects or seeks further clarification based on the recommendation of the evaluation committee and the professional opinion. The Accounting Officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.

49. The successful bidder shall accept in writing the award of the tender within the days indicated in the letter, from the date of the letter of notification of award. Letters of

acceptance of award shall not be requested if the method of procurement was RFQ. Instead, an LPO/LSO, as appropriate, shall be issued immediately after award. After the awarded bidder has signed the contract and furnished the performance security where required, the Procurement Expert shall release all bid securities, if any, to all the tenderers.

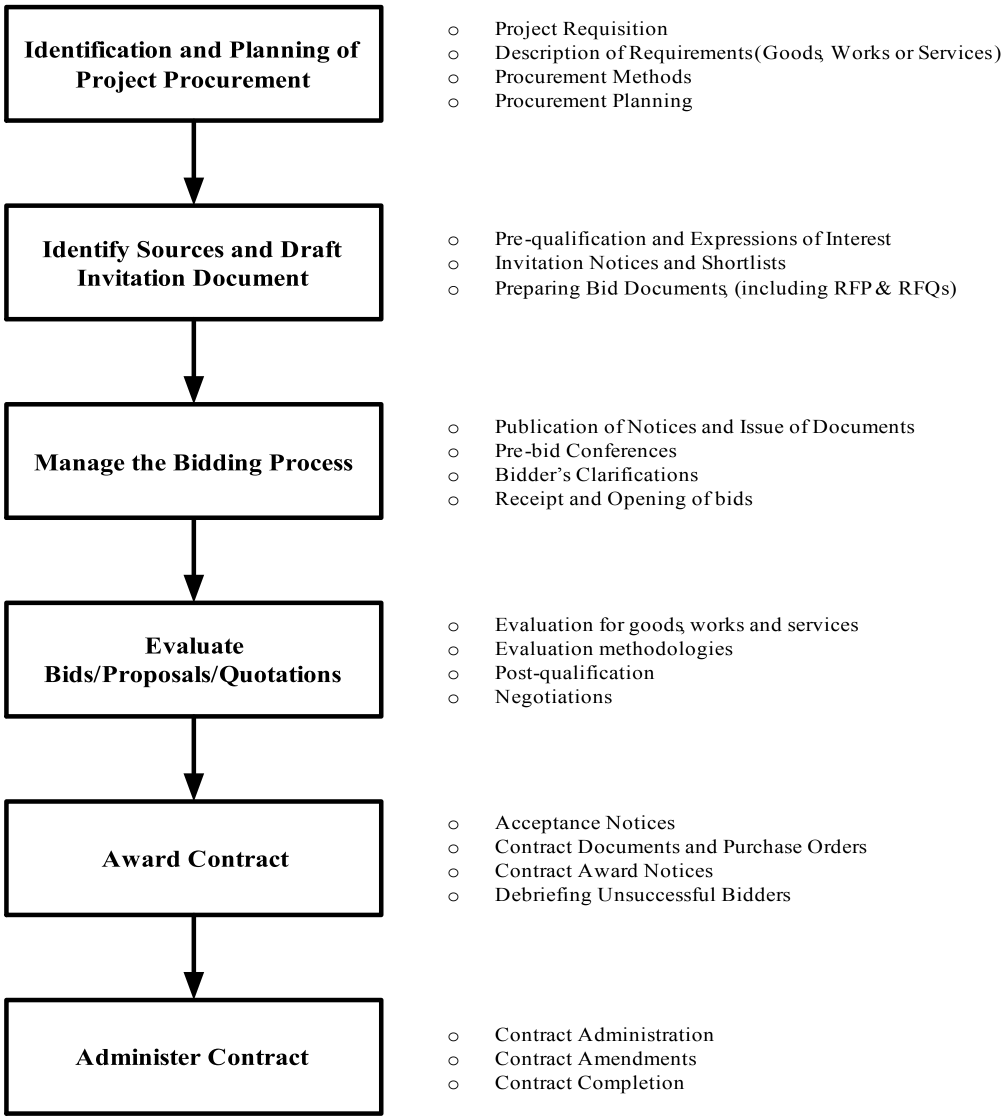


Figure 1: SOP for Procurement of Goods and Services

SECTION 3: GENERAL PROCUREMENT PRINCIPLES

3.1 Procurement Objectives

50. The Bank`s core procurement principles will also guide procurement under the Program. These principles include value for money, economy, integrity, fit for purpose, efficiency, transparency and fairness.

3.2 Procurement Categories

51. Procurement under this program involves activities in the following categories:

    (i) Goods & Non-Consulting Services; these include (but not limited to) office equipment and supplies, IT equipment, specialized equipment, vehicles etc. In addition, other operational services, maintenance or similar obligations related to the supply of the goods are included in this category.

    (ii) Works: office partition works and other technical services such as repair and maintenance of equipment.

    (iii) Consultancy Services: these are intellectual and advisory services provided by individual consultants or consulting firms using their professional skills to study, design and organize specific aspects of the program, conduct training and knowledge transfer.

3.3 Procurement Thresholds

52. The thresholds and applicable procurement methods and prior review by the World Bank are outlined in the Bank Guidance "Thresholds for procurement approaches and methods by country, July 1, 2016".

Table 4: Thresholds for Procurement Methods US$ '000

Works Goods,			**IT and non-consulting services**			**Shortlist of national consultants**	
Open international ≧	Open national <	RfQ ≦	Open international ≧	Open national <	RfQ ≦	Consulting services <	Engineering & construction supervision ≦
15,000	15,000	200	3,000	3,000	100	300	300

3.4 Advertising

53. In order to get the broadest possible interest from eligible bidders and consultants, a General Procurement Notice (GPN) will be prepared by the PIU and published in United Nations Development Business online (UNDB online) and on the Bank's external website through STEP. The PIU will keep a list of received responses from potential bidders interested in the contracts.
54. Timely notification of bidding opportunities is essential in competitive bidding. The PIU will be required to prepare and submit to the Bank a GPN using the format of Annex 1 - Sample General Procurement Notice. The Bank will arrange for its publication in UN Development Business online (UNDB online) and on the Bank's external website.

55. The GPN shall contain information concerning the Program, amount and purpose of the Credit/grant, scope of procurement reflecting the Procurement Plan, and the name, telephone (or fax) number, and address (es) of the Ministry responsible for procurement, and where the subsequent Specific Procurement Notices will be posted.

56. Invitations to prequalify or to bid, as the case may be, and Request for Expressions of Interest (EOI) for all procurement financed by the Bank that is expected to involve open international competitive procurement shall be advertised as Specific Procurement Notices (SPN) in at least one newspaper of national circulation in Kenya, and on the website/electronic portal in the e-procurement platform provided by the National Treasury. SPN and REOI shall be prepared using the format of Annex 5 - Sample SPN and Annex 2- Sample REOI. Notification shall be given in sufficient time to enable prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses. The Bank will arrange the simultaneous publication of all Specific Procurement Notices prepared and submitted by the PIU on the Bank's external website.

57. Advertisement for Request for Expression of Interest should be published in a national newspaper of wide circulation, and if need be regional newspapers and international technical Journals. The complete text of advertisement shall also be published on the website/electronic portal in the e-procurement platform provided by the National Treasury, which has free national and international access.

58. Specific Procurement Notices (SPN) for all goods, works, non-consulting services and Request for Expression of Interest for all consulting services following the international market approach will be published in UNDB online and on the Bank's external website through STEP and in at least one newspaper of national circulation. SPN for contracts

following the national market approach will be published in at least two newspapers of national circulation, a free-access website and official gazette (if available).

59. In regard to county-specific procurements pursuant to section 33 of PPADA, the procuring entity shall advertise the notice inviting expressions of interest in the dedicated Government tenders portal; in its own website, or in at least one daily newspaper of county-wide circulation.

3.5 Publication of Award of Contract and Debriefing

60. For all contracts, whether subject to the Bank's prior review or post review, the PIU shall publish a public notice of award of contract (Contract Award Notice) after the end of the standstill period and contract signing. For goods, and non-consulting services, the information to publish shall specify

    (i) name of each bidder who submitted a bid;

    (ii) bid prices as read out at bid opening;

    (iii) name and evaluated prices of each bid that was evaluated;

    (iv) name of bidders whose bids were rejected and the reasons for their rejection; and

    (v) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.

61. For Consultants, all consultants competing for an assignment involving the submission of separate technical and financial proposals, irrespective of its estimated contract value, shall be informed of the result of the technical evaluation (the score that each firm received), before the opening of the financial proposals.

Furthermore, the following information must be published:

(i) names of all consultants who submitted proposals;

(ii) technical score assigned to each consultant;

(iii) evaluated prices of each consultant;

(iv) final score ranking of the consultants; and

(v) name of the winning consultant and the price, duration, and summary scope of the contract.

The same information will be sent to all consultants who have submitted proposals. The Borrower's implementing agency will be required to offer debriefings to unsuccessful bidders and consultants, if the individual or firms request such a debriefing.

62. The Contract Award Notice shall be published on the Borrower's website with free access, or, if not available, in at least one newspaper of national circulation in the Borrower's country, or in the official gazette. In the case of international competitive procurement, the Contract Award Notice shall also be published by the Borrower in UNDB online. For contracts subject to the Bank's prior review, the Bank will arrange the publication on its external website upon receipt from the Borrower of a conforming copy of the signed contract.

63. All contracts awarded under ICB, LIB, Framework Agreements, QCBS, QBS, and all direct contracts, shall be published within two weeks of receiving the Bank's no objection to the award recommendation for contracts subject to the Bank's prior review, and within two weeks of the Accounting Officer`s award decision for contracts subject to the Bank's post review. Publications shall include the tender description, and the following information, as relevant and applicable for each method:

64. The Bank will arrange for the publication of the awards of contract under prior review on its external website. The detailed procedure for the publication of the award of contract for the various categories is described in the World Bank Procurement Regulations.

3.6 Publication by PPRA

65. A detailed procedure for Publication of procurement contracts by Public procuring entities under Public Procurement is as per Clause 138 of the PPADA.

3.7 Procurement Records

66. The PIU shall keep records for each procurement activity, even if no contract resulted after the procurement proceedings were terminated. Each contract should have a separate file (manual and/ or electronic). The Unit shall maintain a proper filing system with clear links between procurement and expenditure files.

    The procurement records for a procurement contract include:

    i) A brief description of the goods, works or services to be procured, or of the procurement need for which the procurement entity invited proposals or offers;
    ii) The names and addresses of suppliers or consultants that submitted tenders, proposals, or quotations, and the name and address of the supplier or consultant with whom the procurement contract is entered;
    iii) Information relating to the qualifications, or lack of qualifications of suppliers or consultants that submitted tenders, proposals, or quotations;
    iv) The price, or the basis for determining the price and a summary of the other principal terms and conditions of each tender, proposal, or quotation and of the procurement contract if these are known to the procurement entity;

v) A summary of the evaluation and comparison of tenders, proposals or quotations including the application of any margin of preference;

vi) A statement to the effect and the grounds for the rejection tenders, proposals, or quotations;

vii) A statement to the effect and the reasons for procurement proceedings involving methods of procurement other than tendering, and those proceedings that did not result in a procurement contract;

viii) The information required, if a tender, proposal, or quotation was rejected;

ix) A statement of the grounds and circumstances on which the procurement entity relied to justify the selection of the method of procurement used;

x) In the procurement of services, the statement on the grounds and circumstances on which the procurement entity relied to justify the selection procedure used;

xi) In procurement proceedings involving direct invitation of proposals for a statement of the grounds and circumstances on which the procurement entity relied to justify the direct invitation;

xii) In procurement proceedings reasons for limiting participation on the basis of nationality, a statement of the grounds and circumstances relied upon for the limitation;

xiii) A summary of any requests for clarification of the prequalification or invitation documents, the responses received as well as a summary of any modification of the documents;

xiv) A record of any complaints received from suppliers, or consultants and the responses received

xv) Signed contract and other contract supporting documents;

xvi) Payment invoices or certificates, as well as the certificates for inspection, delivery, completion, and acceptance of Goods, Works, and Non-consulting Services;

xvii) Contract amendments, if any.

3.8 E-procurement

67. E-procurement means "the process of procurement using electronic medium such as the internet or other information and communication technologies" (PPADA)

68. The Bank makes a provision that "Borrowers may use electronic procurement systems (e-Procurement) for aspects of the Procurement Process, including issuing Procurement Documents, and addenda, receiving Applications/quotations/Bids/Proposals, and carrying out other procurement actions, provided the Bank is satisfied with the adequacy of the system, including its accessibility, security and integrity, confidentiality, and audit trail features.

Procuring Entities are expected to use IFMIS ports for procurement processes and management. And it is accessible both nationally and internationally.

Procuring Entities use e-procurement to achieve benefits such as increased efficiency, cost savings, and improved transparency in the procurement process. The PIU nit will make every effort to use e-procurement as directed especially in view of such emerging issues like Covid-19 pandemic. Procuring entities are strongly encouraged to utilize electronic means to conduct business process and avoid physical handling of documentation.

3.9 Contract Management

69. The aim of contract management is to ensure that all parties to a contract meet their obligations as per the terms and conditions of each contract. Contracts shall be actively managed by the PIU/Implementing Agency throughout their duration to ensure all deliverables are met to the satisfaction of stakeholders in accordance with the Public Procurement and Asset Disposal Act, 2015 (Section 151) and Public Procurement and Asset Disposal Regulations (PPADR), 2020 sections 137 & 138. The procedure for contract management will be as follows:
70. Effective contract management shall require systematic and efficient planning, execution, monitoring, and evaluation to optimize performance while managing risks to ensure that both parties fulfil their contractual obligations with the ultimate goal of achieving VfM. The tender documents shall be the basis of all procurement contracts and shall, constitute at a minimum— (a) Contract Agreement Form; (b) Tender Form; (c) price schedule or bills of quantities submitted by the tenderer; (d) Schedule of Requirements; (e) Technical Specifications; (f) General Conditions of Contract; (g) Special Conditions of Contract; (h) Notification of Award.
71. For contracts identified under NT/PIU, the Contract Management Plans shall typically contain a summary of details as follows:
    a) Identified potential risks (such as delays in the contractor's right of access to site, payment delays, and other defaults in the entity's contractual obligations that could potentially lead to contractual disputes), and their mitigation;
    b) Key contacts and roles and responsibilities of the parties:
        i) names and contact details for each party

ii) Obtain necessary authorizations to ensure all contract decisions are valid and enforceable;

c) Communication and reporting procedures;

d) Key contractual terms and conditions;

e) Contractual milestones, including critical path (identified to ensure early detection and mitigation of issues), and payment procedures consistent with contractual provisions

f) Key contract deliverables, identified and properly described, and updated to account for change orders during the execution of the contract;

g) Key Performance Indicators (KPIs) and a description of the measurement process (if required);

h) Contract variation/change control mechanisms; and

i) Record-keeping requirements.

72. During contract execution, the contract and the Contract Management Plan will be used to ensure that both contracting parties are complying with the contractual provisions.

73. To determine whether VfM is achieved, contract performance shall be monitored by NT/ PIU FLLoCA to ensure the following:

a) Risks are managed or mitigated before they materialize;

b) The contract is completed on time and within budget;

c) Contract variations are properly justified;

d) The outcome of the contract meets the objectives set at the start;

e) The requirements are met or exceeded within budget; and

f) The final contract price compares favourably with comparable benchmarks

74. The NT SCM Unit shall be responsible for; - Recommending members of the Inspection and Acceptance committee for appointment by the Accounting Officer.

i. The Inspection and Acceptance committee shall be responsible for: -

   a. inspect and where necessary, test the goods received; (b) inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and (c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

   b. ensure that the correct quantity of the goods is received; (b) ensure that the goods, works or services meet the technical standards defined in the contract; (c) ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted; ensure that all required manuals or documentation has been received; and (e) issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

   c. Ensuring the right quality and/or quantity of goods, works and services have been

   d. Contract Monitoring: The PIU shall prepare monthly progress reports on all procurement contracts of FLLoCA.

ii. The user departments/divisions/Implementing Agencies shall submit performance reports for every contract to the FLLoCA Program Coordinator, for onward submission to the Accounting Officer.

- Report any departure from the terms and conditions of the contract to the Head of the SCM Unit.

- Forward details of any required variations to contracts to the Head of the SCM Unit for consideration and action and onward submission to the Accounting Officer for approval
- Maintain and archive records of contract management.

iii. Complex and Specialized Contract Implementation Team:

SCM Unit shall recommend members of the Contract Implementation Team (CIT) for appointment by the Accounting Officer. The members shall be drawn from:

  - FLLoCA
  - SCM Unit (where applicable)
  - The requisitioner
  - The relevant technical department/division
- A co-opted member from another partner entity or outsourced consultant where applicable

iv. The Contract Implementation Team shall be responsible for:

  - Monitoring the performance of the contractor/supplier/service provider
  - Ensuring that the contractor/consultant submits all documentation as prescribed
  - Ensuring that NT- FLLoCA meets all the payment obligations on time
  - Ensuring that there is right quality and within the time frame and where required
  - Reviewing any contract variation requests which are justified by the relevant technical department in writing and backed by supporting evidence, make recommendations and submit to the Procurement Unit for processing.

- Managing handover or acceptance as prescribed
- Making recommendation for contract termination where appropriate
- Ensuring that the contract is complete, prior to closing the contract file including all hand-over procedures, transfers of title if need be and that the final payment is made followed by a contract close out.
- Ensuring that all contract administration records are complete, up to date, filed and archived
- Ensuring that the contractor acts in accordance with all the provisions of the contract
- Ensuring discharge of performance guarantee where required

v. The Procurement Specialist shall be the custodian of ALL original Performance Bonds and the CBK/Program Manager Finance will be responsible for confirmation with CBK and shall confirm authenticity and validity of the performance bonds.

vi. Advance payment Guarantees shall be kept by the Program Manager Finance and authenticity (CBK/finance) of the same shall be established. (The SCM Unit shall keep a copy)

vii. Advance payment recovery shall be against Advance guarantee

75. The SCM Unit shall prepare schedule(s) on how services are to be delivered for purposes of ensuring smooth working of the ad hoc Inspection and Acceptance Committee(s).

76. At least 2 days before the inspection of delivered services, the officer SCM Unit shall liaise with Heads of User Departments and recommend three nominees to the Procurement Unit to be appointed by the AO or his nominee as members to the Inspection

and Acceptance Committee for the subject procurement(s). Several committees may be nominated to inspect and accept different services.

77. The User Department where the subject services belong must be a member of the committee and the committee shall have necessary technical competence for the subject services being inspected.

78. The necessary documents that must form the basis for inspection of the services shall be the contract; the original Technical & Financial Proposal document of the consultant; service levels agreed; suppliers' delivery note; and suppliers' invoice, if any. The Inspection Committee shall not introduce new requirements, which are not reflected in the contract. Inspection of the services delivered entails examining the delivered services against the deliverables required by FLLoCA as reflected in the contract document.

79. If the Inspection Committee is satisfied that the delivered services meet the standard agreed in terms of quantity(s) and quality as prescribed in the contract, the inspection committee shall sign the Inspection and Acceptance certificate. The SCM Unit shall keep the original Inspection and Acceptance Certificate, which He/she shall use to facilitate payment.

80. If the Inspection and Acceptance Committee is not satisfied, the SCM Unit, with reasons why the Inspection Committee rejects the services, shall issue the service provider with a rejection note and the service provider shall then have to take necessary action to rectify the problem(s). The SCM Unit shall then prepare a Certificate of Acceptance of the services and submit the certificate with the original Inspection Certificate to the AO for approval.

81. The Certificate of Acceptance here entails explanations regarding the quality and quantity (specifications or scope of services) of the services performed against the requirements of FLLoCA/NT as prescribed in the contract and RFP document. If the AO is satisfied, He/she shall remark the approval on both the Certificate of Acceptance and inspection certificate and the documents shall be taken back to Supply Chain Management Unit. If the AO is not satisfied, both the Certificate of Acceptance and the inspection certificate will be returned back to the concerned persons to address the comments of the AO.

82. A new set of Certificate of Acceptance and inspection certificate shall be re-submitted to the AO for approval after His/her comments have been addressed.

83. Upon completion of a contract, the NT/PIU shall be responsible for closing out contracts. This stage concerns the activities associated with end of contract, whether in accordance with the contract or as a result of early termination. In the case of contracts ending in accordance with the original contract plan, best practice requires the need for evidence that the contract has been completed to the satisfaction of all parties. This is normally carried out in two stages; firstly, to ascertain internally that there are no outstanding matters and, secondly, to secure agreement from supplier/contractor that, apart from agreed on- going liabilities, the contract has ended.

84. The aim of the closure procedure is to provide a mechanism for managing the closure of the contract following the end of any retention or guarantee periods and the resolution of all other outstanding matters. The contract management teams at the PIU and County levels will;

- ensure completion of all administrative matters

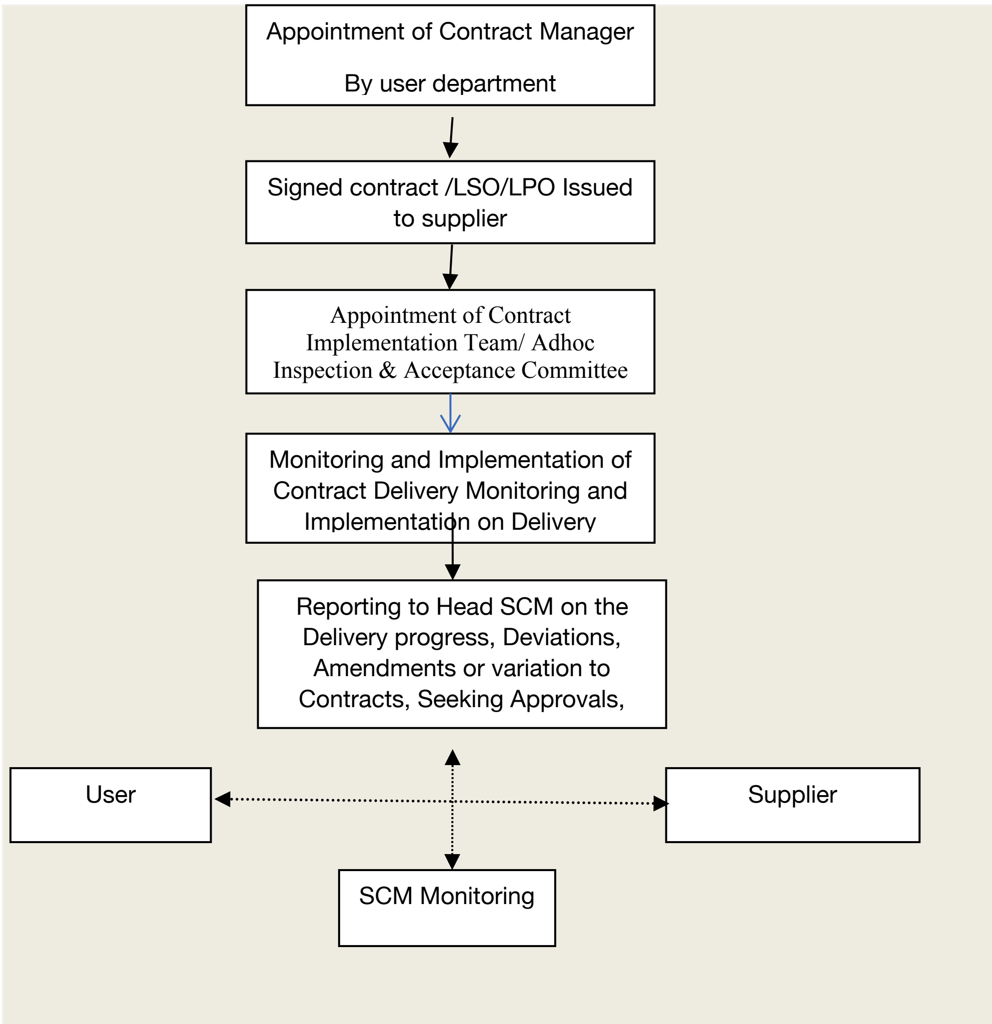
- record that all technical issues have been completed
- determine the extent of any liquidated damages to be deducted from the contract price
- record the end of the retention and guarantee periods and the date of the
- final inspection carried out
- record the date of release of retention and/or bank guarantees
- to agree a statement of specific limits on continuing contractual obligations after completion of goods delivery/work completion and any on- going obligations following the end of guarantees or maintenance periods
- record any materials reconciliation
- transfer any assets, including data and intellectual property, and any loan items
- transfer operational systems to the successful supplier/contractor
- record the process of final contract payments and a summary of the financial payments received
- summarize claims made against or received from the supplier
- ensure the retention of records relating to the contract to counter any subsequent claims that may be brought.

The agreement should require the signature of the parties to a document which records the acceptance of the work or service, the obligations fulfilled, and the price paid or to be paid

The close out shall also involve:

i. Issuance of certificate of completion to the contractor confirming delivery and acceptance of goods, works and services where the contract is not complex and specialized.
ii. Issuance of certificate of completion by the contract implementation team confirming delivery, acceptance of goods, works and service in case of complex and specialized contracts.
iii. Lessons learnt from the contract and the success factors etc. for future application.

Figure 2: Procedure for contracts management



3.10 Contract Amendments

85. Changes to contracts can take the form of variation orders in which case there is an increase or reduction in scope of the contract and may include additions or omissions, that have a cost implication on the contract. An amendment or a variation to a contract resulting from a procurement proceeding is effective only if— (a) the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity; and (b) any contract variations or amendments for goods, works and services shall be as prescribed by PPADA.
86. Documentary evidence to Justify and support the requested changes will be required for post review contracts. All variations will require the Accounting Officer or/and World Bank approval before they are undertaken.
87. For contracts subject to prior review, the Borrower shall seek the Bank's no objection before agreeing to:
    a) an extension of the stipulated time for execution of a contract that has an impact on the planned completion of the project;
    b) any material modification of the scope of the Works, Goods, Non-consulting services or Consulting Services, or other significant changes to the terms and conditions of the contract;
    c) any variation order or contract amendment (except in cases of extreme urgency), including due to extension of time, that singly or combined with all previous variation orders or amendments, increases the original contract amount by more than 15% (fifteen percent);

d) the proposed termination of the contract; e. any material modification to the SEA/SH Prevention and Response obligations in Works contracts; or

e) any amendment(s) or modification(s) of ongoing contracts involving a firm disqualified for SEA/SH non-compliance.

88. If the Bank determines that the Borrower's request for any such modification would be inconsistent with the provisions of the Legal Agreement and/or Procurement Plan, it informs the Borrower and states the reasons for its determination. The Borrower shall provide a copy of all amendments to the contract to the Bank for its records.

3.11 Operating Costs

89. Operating costs financed by the Program are incremental expenses arising under the Program and based on Annual Work Plans and Budgets approved by the WB. These will be procured using the Country system as determined by the various thresholds, such costs may include:

a) Communications (including telephone and internet charges);

b) Equipment rent, operation and maintenance;

c) maintain appropriate comprehensive insurance coverage with respect to motor vehicle insurance;

d) maintain appropriate cargo insurance or self-insure against loss of or damage to supplies and equipment, if any, purchased in whole or in part with funds provided under the Program;

e) with regard to Staff, maintain appropriate health insurance; provide for compensation in respect of injury, sickness or death while performing official duties;

f) Office rent and parking;

g) Office materials and supplies (stationery and other consumables),

h) Maintenance and repair;

i) Travel cost and transport of the staff associated with program implementation.

j) Staff related costs for the support staff. However, PIU management staff costs shall be treated as consulting services.

The levels for operating expenditures will be discussed and agreed with the WB.

3.12 Procurement Compliance Monitoring

90. The Procurement entity shall be responsible for complying with the agreed procurement procedures. Procurement audits shall be conducted regularly to ascertain the level of compliance of the Procurement Unit and other stakeholders with the relevant laws, regulations and the agreed procurement procedures. The Program Coordinator shall arrange for such reviews.

3.13 Compliance Reviews

91. The (Public Procurement Regulatory Authority (PPRA) "Compliance Monitoring Manual" may be used to conduct the Compliance reviews. The manual offers fifteen (15) compliance monitoring methods. The Procurement Review method is recommended for this program. It is the most commonly used method for compliance monitoring, and it is often the default method used by many institutions, as well as by PPRA. More specifically the format of Procurement Review report format in the Manual should be used. The Procurement Review is carried out by reviewing procurement documents and records, making physical checks and interviews. It is involving sampling Procuring Entities and contracts in each Procuring Entity. In the case of this Project, the Entities to be reviewed are the Procurement Unit, Counties, Sub-counties and a few community developments

projects. The review will include procurement performance and adherence to other requirements such as procurement filing, procurement planning and use of e-procurement. The Procurement Unit in the National and Counties are responsible for managing procurement operations shall make available the procurement documents and records to the review consultants and give them full cooperation in the review process.

92. The review should be carried out by independent consultants (not by government staff) to ensure the independence of the task. Procurement Review can be carried out by individual consultants (Procurement Specialists) or by Consulting Firms. The outcome or output of the compliance monitoring review is a "Compliance Monitoring Report" which should contain shortcomings and irregularities identified in the procurement function, and an action plan for improvements. The reviews should be carried out once a year (starting around January) on contracts signed and/or completed in a previous year. The Compliance Monitoring Report is an internal project report that should be shared with the Steering Committee and the World Bank. The Compliance Monitoring Report is not affected by the Bank's ex-post reviews; the two are complimentary.

3.14 Post Reviews

The Procurement Unit and Counties shall retain all procurement documents and records with respect to each contract for review by the Bank or by its consultants during their ex-post review exercise, which is often scheduled by the Bank. The ex-post review usually involves contracts not subject to Bank prior review. In some instances, the Bank may discover contracts that are subject to prior review, but which were not submitted to the Bank for no-objection. The Bank shall, if it determines that a contract was not awarded in accordance with the agreed procedures, as reflected in the Grant Agreement and further elaborated in the Procurement Plan approved by the Bank, the Bank may, in addition to exercising the legal remedies set out in the Legal Agreement, take other appropriate actions, including declaring misprocurement as per Section 3.25 of World bank Regulations. The Procurement Unit is expected to cooperate fully with the Bank during the ex- post review exercise.

SECTION 4: IPF PROCUREMENT IN THE PROGRAM

4.1 Procurement of Goods, Minor Works and Non-Consulting Services

93. Goods and minor works to be procured under the Program PPA will include office and IT equipment, partitioning works and program motor vehicles. While approaching international market procurement will be done using the Bank's Standard Procurement Documents (SPDs). Procurements while approaching national market will be done using the National Standard Bidding Documents and additional annexes to address Bank's Anti-Corruption Guidelines, universal eligibility, Bank's right to sanction, inspection and audit, and contracting arrangements acceptable to the Bank. Appropriate amendments to the bidding documents will be made in the Appendix to Instruction to Tenderers corresponding to clauses in Instruction to Tenderers and to the General conditions of contract corresponding clauses in the Special Conditions of Contract

94. The following thresholds shall be applicable to procurement but may be subject to review by the Bank from time to time.

    1. Contracts for goods and non-consulting services estimated to cost US$3,000,000 equivalent or more per contract shall be procured through Market Approach listed below, in accordance with "Bank Guidance -Thresholds for Procurement Approaches and Methods by country" effective July 1, 2016' applicable to Kenya:

US$3,000,000 and above.

Selection Method	Market Approach Options	Procurement Process
Request for Bids	Open International Limited	Single stage – one envelope

2. Contracts estimated to cost less than US$3,000,000 per contract may be procured using thresholds as set out in the Public Procurement and Asset Disposal Act 2015 and its associated Regulations as per the applicable thresholds.

4.2 Selection of Consultants

Consulting services that shall be procured under the Program shall include but not limited to;

a) The selection of consultants;

b) Outline Business Case preparatory work;

c) Technical Advisors

d) Individual consultants and/or support personnel may also be hired to augment existing capacity within the PIU in accordance with the provisions of Para 7.32 of WB Procurement Regulations

4.3 Selection Methods for Consultant Firms

1. Contracts estimated to cost US$300,000 equivalent or more per contract shall be procured through Market Approach listed below, in accordance with 'Bank Guidance -Thresholds for Procurement Approaches and Methods by country effective July 1, 2016' applicable to Kenya:

Table 5: Selection Methods and Market Approach

Selection Method	Market Approach	Contract Type
QCBS; QBS; LCS; FBS	Open International Shortlist	(i) Lump sum (ii) Time Based
Direct Selection	Direct	(i) Lump sum (ii) Time Based

2. Contracts estimated to cost less than US$300,000 may be procured using the applicable thresholds spelt out in the PPADA and its associated Regulations.

4.4 Exceptions to the use National Competitive Bidding Procedures under IPF Component

3. Procurement for Goods and Works under National Competitive Bidding may follow the national procedures that are governed by the Public Procurement and Asset Disposal Act 2015 after incorporating the following:

a) open advertising of the procurement opportunity at the national level;

b) the procurement is open to eligible firms from any country;

c) the request for bids/request for proposals document shall require that Bidders/Proposers submitting Bids/Proposals present a signed acceptance at the time of bidding, to be incorporated in any resulting contracts, confirming application of, and compliance with, the Bank's Anti-Corruption Guidelines, including without limitation the Bank's right to sanction and the Bank's inspection and audit rights;

d) contracts with an appropriate allocation of responsibilities, risks, and liabilities;

e) publication of contract award information;

f) rights for the Bank to review procurement documentation and activities;

g) an effective complaints mechanism; and

h) maintenance of records of the Procurement Process.

4. Other national procurement arrangements (other than national open competitive procurement), that may be applied (such as limited/restricted competitive bidding, request for quotations/shopping, direct contracting), shall be consistent with the Bank's Core Procurement Principles and ensure that the Bank's Anti-Corruption Guidelines and Sanctions Framework and contractual remedies set out in its Legal Agreement apply.

5. In all cases, the national procurement procedures to be used shall give due attention to quality aspects.

4.5 Standstill Period

1. To give Bidders/Proposers/Consultants time to examine the Notification of Intention to Award and to assess whether it is appropriate to submit a complaint, a Standstill Period shall apply, except in the situations described below.

   a) only one Bid/Proposal was submitted in an open competitive process;

   b) direct selection

   c) call-off process among firms holding Framework Agreements (FAs); and

   d) Emergency Situations recognized by the Bank

2. Transmission of the entity's Notification of Intention to Award begins after the Standstill Period. The Standstill Period shall last ten (10) Business Days after such transmission date, unless otherwise extended in accordance with Paragraph 5.82 on

debriefing in the WB Procurement Regulations. The contract shall not be awarded either before or during the Standstill Period.

4.6 Shortlisting of Firms

3. The following steps shall be carried out in a Shortlisting process:

a) Terms of reference: prepare the complete TOR for the assignment. The TOR shall define clearly the objectives, goals, and scope of the assignment, provide background information to facilitate preparation of Proposals, and be compatible with the budget; All TORs irrespective of the cost of the assignment are subject to Bank's clearance;

b) Request for Expressions of Interest: prepare the Request for Expressions of Interests (REoI) in accordance with the Bank's standard template for REoI. The REoI shall include the complete TOR;

c) Publication of the REoI: after the complete TOR has been prepared and is ready for distribution, the TOR shall be made available to interested firms by publishing the REoI according to the advertising procedures in 1.7 above;

d) Clarifications and addenda to the REoI: shall be in Writing;

e) Submission of Expressions of Interests: give firms sufficient time to respond to the REoI, normally no less than 10 Business Days. Late submission of an Expression of Interest (EoI) is not a cause for its rejection unless the entity has already prepared a Shortlist of qualified firms based on EoIs received; and

f) Shortlisting: assess the Expressions of Interest to determine the Shortlist. The criteria to be used for shortlisting may normally include core business and years in business, relevant experience, technical and managerial capability of the firm. Key personnel are not evaluated at this stage. The final Shortlist is communicated to all firms that expressed interest, as well as any other firm or entity that requests this information. The invitation to Shortlisted firms to submit Proposals includes the names of all Shortlisted firms. Once the Bank has issued its no-objection to the Shortlist, the entity does not modify it without the Bank's no- objection. A shortlist shall contain between 5 and 8 consultants.

g) Procedures for consultant selection process: consultants will be selected in accordance with the procedures outlined in Paragraphs 7.2 and 7.3 of Annex XII of the World Bank Procurement Regulations.

SECTION 5: NATIONAL COMPETITIVE BIDDING PROCEDURES UNDER IPF & PforR COMPONENTS

The PforR Procurement will follow Government Procurement systems under PPADA and the associated procurement regulations 2020. The Act provides for different procurement methods and open tender is the preferred method. FLLoCA will approach the market through National Competitive Bidding (NCB), Request for Quotation (RFQ), Shopping (Low Value Procurement), Direct Contracting (DC), Restricted Tendering (RT), Force Account, Framework Agreements and Community Participation based on the thresholds. FLLoCA will use the current Standard bidding documents; Standard template for bid opening report; and Standard template for bid evaluation provided by PPRA. The SBDs used for open tendering are adequate, contain all the relevant information, and will be used for FLLoCA supported activities, which shall enable bidders to prepare responsive bids. The evaluation criteria are generally non-discriminatory and encourages competition. Any amendments to the Standard bidding documents will be made in the Appendix to Instruction to Tenderers corresponding to clauses in Instruction to Tenderers and to the General conditions of contract corresponding clauses in the Special Conditions of Contract.

1. Methods of Selection and limit of application per contract for Goods, Works and Non-Consultancy Services

Table 6: Procurement Thresholds & Methods

Method of Tendering	Goods	Works	Non-Consultancy Services
National Competitive Bidding (NCB)	No Minimum	No Minimum	No Minimum
Restricted Tendering (RT)	The Maximum level of expenditure shall be KES. 30,000,000 above this threshold use open tender No minimum	The Maximum level of expenditure shall be KES. 30,000,000 above this threshold use open tender No minimum	The Maximum level of expenditure shall be KES. 20,000,000 above this threshold use open tender No minimum
Direct Contracting (DC)	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met
Request for Quotations	Maximum level of expenditure under this method is KES.	Maximum level of expenditure under this method is KES.	Maximum level of expenditure under this method is KES.

Method of Tendering	Goods	Works	Non-Consultancy Services
	3,000,000 per request for quotation	5,000,000 per request for quotation	3,000,000 per request for quotation
Shopping (Low Value Procurement)	Maximum level of expenditure under this method is KES. 50,000 per item per financial year	Maximum level of expenditure under this method is KES. 100,000 per item per financial year	Maximum level of expenditure under this method is KES. 50,000 per item per financial year
Framework agreements	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met
Community participation	No Minimum Maximum Kshs 10,000.000.00	No Minimum Maximum Kshs 30,000.000.00	No Minimum Maximum Kshs 5,000.000.0
Force Account	No minimum. Maximum level of expenditure shall be	No minimum. Maximum level of expenditure shall be	No minimum. Maximum level of expenditure shall be

Method of Tendering	Goods	Works	Non-Consultancy Services
	determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met	determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met	determined by the funds allocated in the budget for the particular procurement provided the conditions under this section are met

2. The procurement method used shall be dependent on the value of procurement to be undertaken. The thresholds practiced by counties, should be in conformity with the thresholds indicated in the Second Schedule of PPADR, 2020. According to the law, procurement planning is mandatory and is part of the budgetary process. All procuring entities are required to prepare annual and consolidated procurement plans in the prescribed standard format in the Third Schedule of PPADR,2020

3. Procurement strategic planning will be done during planning and budget process to come up with consolidated plans that guide all the procuring activities of the counties for the first 12 months of implementation. Through the Integrated Financial Management Information System (IFMIS) procurement will be committed only if funds are available and reflected in the procurement plan.

4. Counties will be assessed annually by the PIU to ensure that they maintain experienced and adequate number of procurement officers including introducing clear and effective strategy in the deployment of procurement officers.

5. Counties under the FLLoCA are encouraged to use procure to pay (P2P) module of E-procurement. The key activities performed by the procurement function across the procure to pay process includes raising of requisitions, which result in approved purchase orders transmitted to the suppliers and supplier performance managed against contractual standards and service level agreements. The extent of P2P application varies across the counties, but it is important that this is strengthened and will be one of the PMs in the ACPA, the adherence with the 25 steps will be promoted throughout the procurement cycle.

6. P2P plays a significant role in the procurement process covering both upstream and downstream activities and without full implementation counties remain exposed to risk including fraud and supply chain disruptions. Through P2P there is also clarity on the responsibility and authorisation of procurements. P2P also enhances integration of procurement and finance since procurements have to match the budgetary allocations before they are committed

7. The IFMIS 25 steps covering both upstream and downstream activities are tabulated below against the direct department responsible.

Table 7: IFMIS Procurement Steps

No	Process	Department
1	Requisition	User
2	Requisition approval	User
3	Raising RFQ	Procurement
4	Approval of Quotation/Tender	Procurement
5	Publishing of Quotation/Tender	Procurement
6	Submission of Quotations/Tender by supplier	Supplier/Procurement
7	Closing of quotations/Tenders	Procurement
8	Opening of Quotations/Tenders	Procurement
9	Evaluation of Quotations/Tenders	Procurement
10	Award	Procurement
11	Award approval	Procurement
12	Communication of award	Procurement
13	Generation of order	Procurement
14	Approval 1	CFO
15	Approval 2	Procurement
16	Order issuance	Procurement
17	Delivery of goods	Supplier/Procurement
18	Receipting & Inspection	IAC/Procurement
19	Invoice preparation	Supplier
20	Validating of accounts	Accounts
21	1st invoice approval	AIE

No	Process	Department
22	2nd invoice approval	Accounts
23	Payment & EFT	Accounts
24	Internet Banking	Accounts
25	Suppliers receive notification of this payment in Kenya	Supplier Portal

8. PIU shall have the e-Procurement system rights to support primary procurement process as above (1,2,3) All counties shall ensure they strengthen their records and filing system. If not properly managed, it will be difficult to follow the procurement of a specific requirement through the various stages of the procurement cycle and the situation has the potential to undermine any audit exercise that may be conducted in future.

5.1 Integrity and Transparency

9. The counties shall develop a policy on ethics & integrity including declaration forms covering aspects such as disclaimers on conflict of interests (maintain a conflict of interest register) and whistle blowing. The role played by the Ethics and Anti-Corruption Commission is critical for maintaining the integrity of procurement processes. Procurement audits serve as an effective tool for enforcing compliance, which is the task of the PPRA.

10. On dissemination of procurement information, a county shall publicise on websites and notice boards procurement results regarding contract awards, procurement plan, contracts being implemented and firms that have been debarred by PPRA and WB. The list of

debarred firms and individual consultants can be found at https://www.worldbank.org/debarr and www.ppra.go.ke.

11. The World Bank debarment lists shall apply under the Program. In this regard, firms debarred by PPRA and the World Bank shall not be eligible for award of contract for the participating counties and national government agencies. In this regard the Bidding Documents to be applied shall specify this requirement and to require bidders to confirm in their bid submission letters that they are not debarred by GoK or WB. Each county and national entities implementing this program will be required to check prior to award of contract to establish that the recommended bidder is not debarred or temporary suspended by the World Bank.

5.2 Procurement Methods for Goods, Works and Services

95. The PIU shall ensure that it has complied with all relevant requirements of PPADA and the current Regulations PPADR 2020 Procurement Regulations prior to initiating the national competitive procedures. The PIU shall use standard tender documents for open tenders for goods, works or non-consultancy services prescribed by the Public Procurement Regulatory Authority. To select a Goods, Works and Non-Consulting Services supplier/contractor/service provider, the following procedure is involved in Request for Bids (Open National Approach).

Step 1: In case of limited and or lack internal capacity, a consultant shall be hired to assist the Procuring Entity in developing technical specifications including detailed bills of quantities for the goods and works required for a particular contract. The PIU will prepare Purchase Requisition (PR). Draft Procurement Documents shall be prepared and approved by PIU

Coordinator to advertise in dedicated Government tenders' portals, NT website/E-Procurement portal and in at least two daily newspapers as per Clause 96 of PPADA.

Step 2: Upon approval to advertise, the PIU will put a Specific Procurement Notice in the websites and newspapers to inform interested bidders of the goods/works required. Notification will be given sufficient time to enable the prospective bidders to obtain the Procurement Documents and prepare and submit their bids. Generally, not less than four (4) weeks from the date of invitation to bid or the date of availability of the Procurement Documents; whichever is later shall be allowed for Open International Competition.

Step 3: The time of bid opening shall be the same as for the deadline of receipt of the bids and shall be announced together with the place of bid opening in the invitation to bid. The PIU shall open the bids at the stipulated time and shall be undertaken by the PIU under the direction of the Procurement Expert. The PIU will open the bids and make sure that the following are announced:

1. Name of the bidder
2. Bid prices and total amount of each bid
3. Alternative bids if available or if requested
4. Amount of bid security/bond
5. Discounts provided by the bidder
6. Withdrawals or any other information that the bidder has opted to provide.

Step 4: Minutes of bid opening will be prepared by the PIU, providing all the details of the opening process and be sent to all bidders under the signature of the Program Coordinator as promptly as possible.

Step 5: The Procuring Entity shall appoint not less than three and not more than five persons to serve as members of an Evaluation Committee to evaluate the bids. An evaluation report with recommendation for award of contract will be sent to the Accounting Officer together with professional opinion from the procurement expert for approval of award.

Step 6: After receiving the approval by the Accounting Officer to the evaluation report, the PIU shall issue a written Notification of the outcome of the Tender Award to each bidder that submitted a bid, using the quickest means available and with evidence of receipt at the intended destination. A period of fourteen (14) days shall be allowed before contract signing to allow for any bidder who may have issues to raise with regard to the tender outcome.

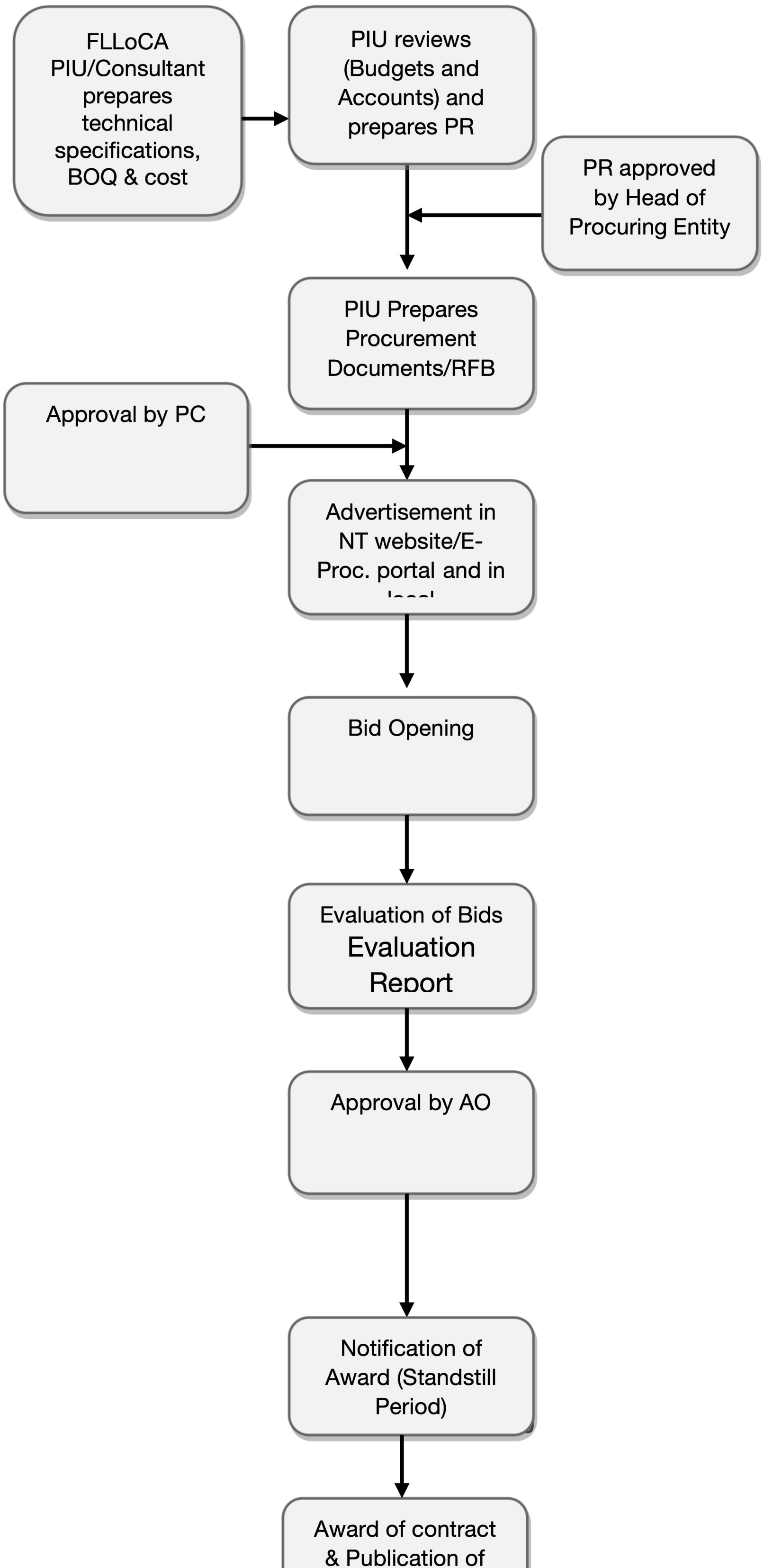
Step 7: At the end of the 14 days, if Procuring Entity has not received any complaint from an unsuccessful bidder, the PE shall proceed to award the contract in accordance with its decision to award, as previously communicated through the Notification of Award.

Step 8: The contract shall be signed by the Parties and each party shall keep a copy.

Step 9: Within fourteen (14) Calendar Days from PIU's Notification of Contract Award to the successful bidder, the program will publish a public notice of award of contract (Contract Award Notice).

Step 10: Contract management and monitoring shall be done by PIU

Figure 3: Procurement through Request for Bids (Open National Approach)



5.3 Procurement through Request for Quotations (National and International)

Contracts for small quantities of office supplies and equipment, vehicles and consumables, which are available locally and internationally at economical prices, would be procured through Request for Quotations (RFQ) procedures based on price quotations obtained from at least three well established and reliable suppliers. RFQ may be used for contracts estimated to cost below US$100,000 per contract for goods and non-consulting services, below US$200,000 for works and below US$500,000 for motor vehicles only.

The following steps will be followed in case of procurement through RFQ:

Step 1: The PIU will prepare the Purchase Requisition (PR).

Step 2: The PIU will seek approval from the head of the Procuring Entity.

Step 3: The PIU will prepare the RFQ

Step 4: Quotations shall be obtained from a minimum of three suppliers.

Step 5: Quotations will be opened by a Bid Evaluation Committee, which shall have one member (technical) from the beneficiary department (if applicable).

Step 6: A comparative statement shall be prepared on the basis of these quotations.

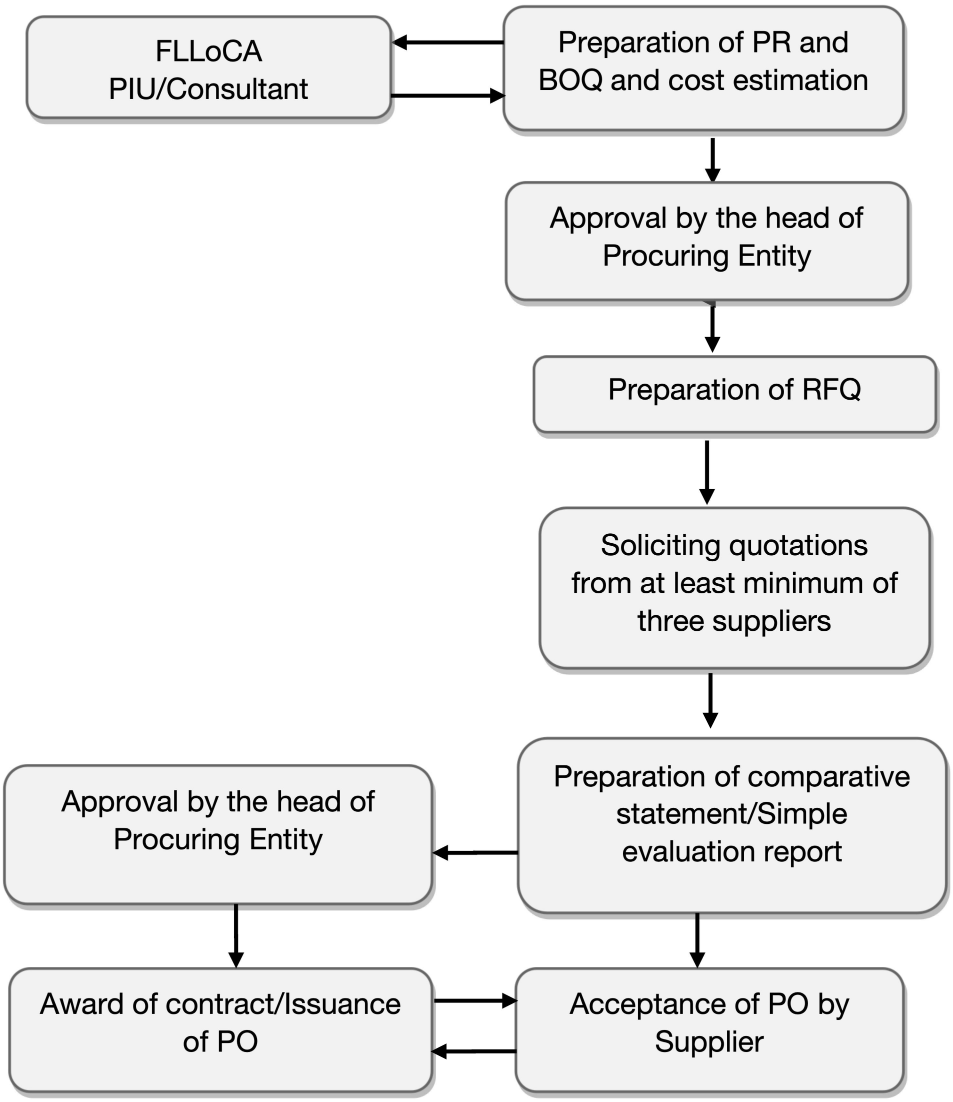
Step 7: The best compliant/responsive quotation shall be accepted.

Step 8: The Purchase Order shall be issued to the selected bidder by the PIU.

Step 9: The following are the standard documents used in national shopping: (i) Purchase Requisition; (ii) Request for Quotation (RFQ; Comparative Statement of Bids/Quotations and Purchase Order/Contract.

Step 10: The Procurement Specialist, through the PIU, will prepare monthly reports of procurements and furnish on regular basis. He/She shall maintain record of all items procured and shall be responsible for audit.

Procurement through Request for Quotation



5.4 Selection of Consultants

Contracts estimated to cost US$300,000 equivalent or more per contract shall be procured using the international market approach under the World Bank`s "Procurement Regulations for IPF Borrowers for Goods, Works, Non-Consulting and Consulting Services, dated July 2016, revised Nov 2017, July 2018 and Nov 2020", hereafter referred to as "Procurement Regulations." will be utilized. Procurement will be done using the World Bank's Standard Procurement Documents (SPD).

The Program will apply two types of contracts for consulting services:

i. Lump Sum (Paragraph 3.2 & 3.3 of Bank Regulations) are appropriate where the scope of the procurement activity can be clearly and accurately specified and can be linked to milestone payments at the time of selection; and b. the contractor is responsible for delivery and contract can be paid on a lump-sum basis per contractual milestones.

ii. Time-Based contracts (Paragraph 3.9 - 3.11 of Bank Regulations), the payment is made on the basis of agreed rates and time spent, plus reasonable incurred reimbursable expenses. It is difficult to define or fix the scope and duration of the services

5.5 Consulting Services through Quality and Cost Based Selection (QCBS) procedures

Selection through Quality and Cost Based Selection (QCBS) procedures is subject to Bank prior review. In such a case, prior No Objection is required from the Bank. To identify the Consultant the following processes will be followed: -

Step 1: Draft Terms of Reference (ToR) for the Consultancy Services will be developed by PIU with the assistance, when applicable, of the technical experts of the Procuring Entity in the area of the assignment. In case of limited and or lack of internal capacity, a consultant shall be hired to assist the Procuring Entity to develop the ToR. The draft ToR will be sent to the World Bank for No-Objection.

Step 2: The PIU, will advertise a Request for Expressions of Interest for each contract in the UN Development Business online (UNDB online) and in widely circulated local newspapers. The information requested shall be the minimum that will be required to make judgement on the firm's suitability and not to be so complex as to discourage consultants from expressing interest. Not less than 14 days from date of advertising shall be provided for responses, before preparation of the shortlist.

Step 3: The PIU shall be responsible for preparation of the shortlist. First consideration will be made to those firms that possess the relevant qualifications. Shortlist shall comprise of not fewer than five (5) and not more than eight (8) eligible firms. The shortlisting report will be forwarded to the World Bank for No Objection.

Step 4: After satisfying the procurement as required, the World Bank shall be asked to review and provide a No Objection for Procuring Entity to proceed with the preparation of the Request for Proposal.

Step 5: The PIU shall prepare a Request for Proposal using the applicable standard RFPs and sent to the Bank for No-Objection. The completed RFP shall be issued to all shortlisted consultants. Consultants shall be allowed not less than 6 weeks to prepare their detailed Technical and Financial Proposals

Step 6: Opening of the Technical Proposals shall be done on the closing date and at the time stipulated in the RFP. The Proposals will be opened by the PIU. All late submissions will be returned to the Consultants unopened. A copy of the record of Technical Proposal opening shall be promptly sent to all Consultants whose Proposals were opened and, if subject to prior review, to the World Bank for information/records.

Step 7: The Procuring Entity will set up an Evaluation Committee consisting of three or more specialists in the sector to evaluate the proposals. The evaluation shall be carried out in two stages. The first stage in the evaluation process is the technical. The evaluation criteria (Quality) generally include:

- the Consultant's relevant experience for the assignment;
- the quality of the methodology proposed;
- the qualifications of the key staff proposed;
- transfer of knowledge;
- the extent of participation by nationals among key staff in the performance of the assignment (in instances where local participation is preferred).

The following weights (Indicative Weighting of Evaluation Criteria (Services)) are indicative and may be adjusted for specific circumstances. The proposed weights shall be disclosed in the RFP.

Table 8: Indicative Weighting of Evaluation Criteria (Services)

Consultant's Specific Experience:	5 to 10 points
Methodology:	20 to 50 points
Key Personnel:	30 to 60 points
Transfer of Knowledge:	0 to 10 points
Participation by Nationals	0 to 10 points

Total:	100

The use of exceedingly detailed lists of sub criteria that may render the evaluation a mechanical exercise more than a professional assessment of the proposals should be discouraged.

Consultant's Specific Experience

The weight given to experience can be relatively modest, since this criterion has already been considered when shortlisting the Consultant.

Methodology

More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).

Personnel

Evaluation shall take into consideration the Key personnel only. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Evaluation Committee shall review the qualifications and experience of proposed key personnel in their curricula vitae, which must be: -

- Accurate
- Complete and
- Signed by an authorized official of the Consultant and the individual proposed.

When the assignment depends critically on the performance of key staff, such as a Program Manager in a large team of specified individuals, it may be desirable to conduct interviews. The individuals shall be rated in the following three sub criteria, as relevant to the task: -

General Qualifications: General education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;

Adequacy for the Assignment: Education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and

Experience in the Region: Knowledge of the local language, culture, administrative system, government organization, and so on and forth.

The Evaluation Committee shall evaluate each proposal based on its responsiveness to the Terms of Reference. A proposal shall be considered unsuitable and shall be rejected at this stage if:

- It does not respond to important aspects of the TOR.
- It fails to achieve a minimum technical score specified in the Request for Proposal (RFP).

Step 8:A Technical Evaluation report will be prepared by the evaluation committee and sent the World Bank for No Objection in case of contracts that are subject to prior review to proceed with opening of the Financial Proposal.

Step 9: After obtaining the Bank`s No Objection, the Procuring Entity shall inform the consultants who have submitted the proposals, the technical score attained by each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were non-responsive to the RFP and the ToR that their financial proposals will be returned unopened after the signature of the contract. Simultaneously, the Procuring Entity will notify consultants that have secured the highest technical score of the date, time and place set for opening of their financial proposals. The financial proposals shall be opened publicly in the presence of the representatives of the consultants who choose to attend.

Step 10: The Evaluation Committee that evaluated the technical proposals shall reconvene to evaluate the financial proposals and produce a combined technical and financial evaluation report.

Step 11: The combined technical and financial evaluation report shall be submitted to IDA for information and records. Simultaneously, the Procuring Entity will set a date for negotiations and invite the highest ranked Consultant.

Step 12: Minutes of the negotiations and an initialed draft contract shall be sent to the Bank for review and No Objection to sign the contract in case of prior review contracts.

Step 13: After approval of the Minutes of the negotiations and an initialed draft contract by the World Bank, the PIU shall issue a written Notification of Intention to Award to each firm that submitted a Proposal, using the quickest means available. The Notification of Intention to Award will include the date the Standstill period is due to end. The standstill period shall last ten (10) business days after transmission date, unless otherwise extended in accordance with Paragraph 5.82 of the Procurement Regulations. The Contract shall not be awarded either before or during the Standstill Period. The Standstill Period shall, however, not be a requirement for the following situations:

- Only one bid/proposal was submitted in an open competitive process;
- Direct Selection;
- Call-off process for among firms holding Framework Agreements (FAs); and
- Emergency Situations recognized by the Bank.

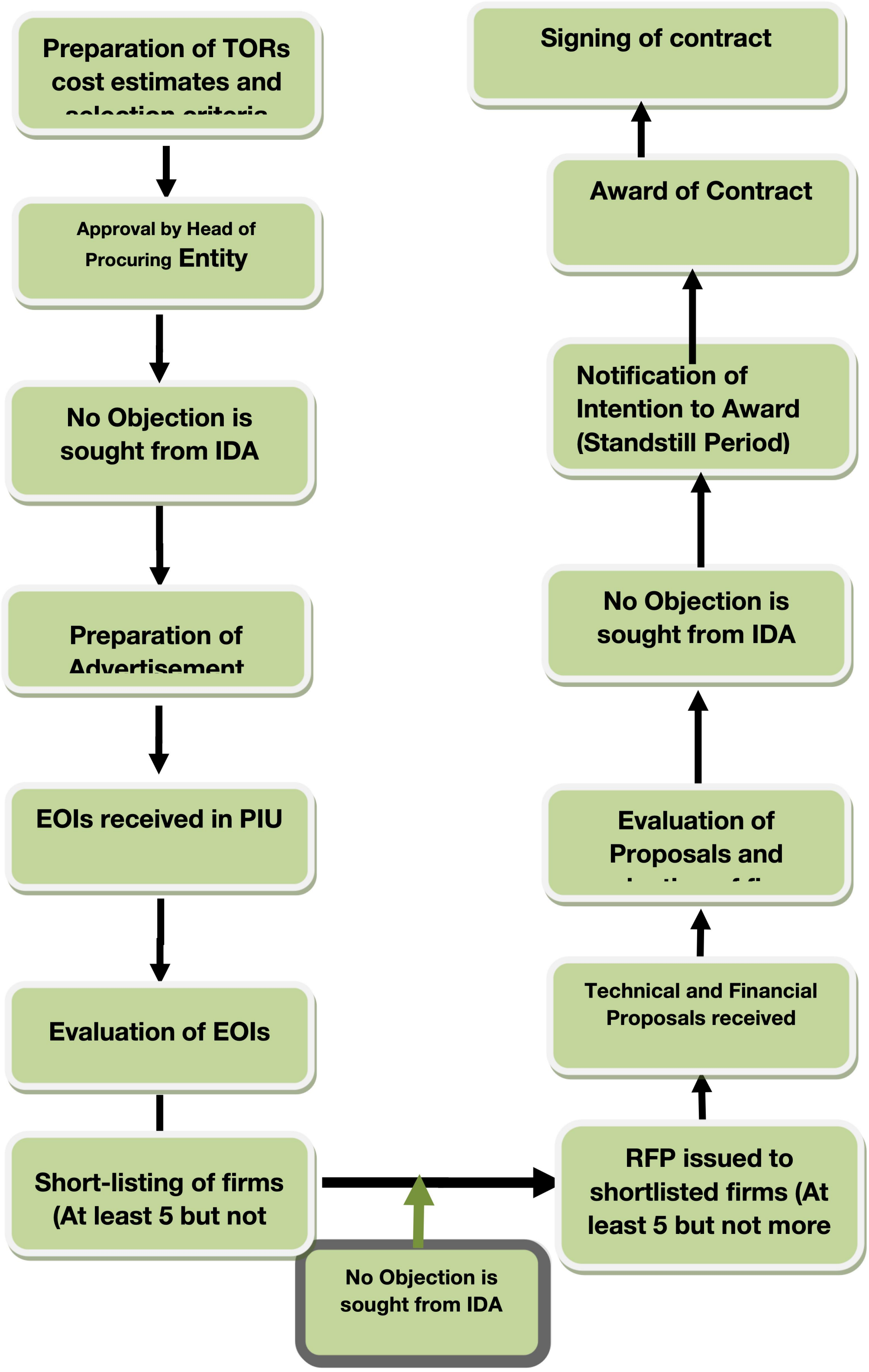
Step 14: At the end of the Standstill Period, if Procuring Entity has not received any complaint from an unsuccessful firm, the Procuring Entity shall proceed to award the contract in accordance with its decision to award, as previously communicated through the Notification of Intention to Award.

Step 15: The contract shall be signed by the Parties. Contract management and monitoring shall be done by PIU.

Step 16: One copy of the contract will be sent to the Bank for record and entry into the contract database.

Step 17: Within ten (10) Business Days from PIU's Notification of Contract Award to the successful bidder, the program will publish a public notice of award of contract (Contract Award Notice).

Quality and Cost-Based Selection of Consultancy Firm



Contracts estimated to cost less than US$300,000 may be procured using the applicable thresholds spelt out in the PPADA and its associated Regulations. The methods include:

5.6 Consultants' Qualifications Based Selection (CQS)

Procedure involved in Consultant's Qualification Based Selection (consultancy firms) is as follows:

Step 1: Draft Terms of Reference (ToR) for the Consultancy Services will be developed by the PIU with the assistance, where applicable, of technical experts of NT/FLLoCA in the area of the assignment. The draft ToR is sent to the Bank for No-Objection (if applicable and as per the Procurement Plan agreed with WB).

Step 2: The PIU shall prepare Expressions of Interest (EOIs) that include information on the Consultant's experience and qualifications and publish the advertisement in widely circulated local newspapers, if at least three qualified firms cannot be identified.

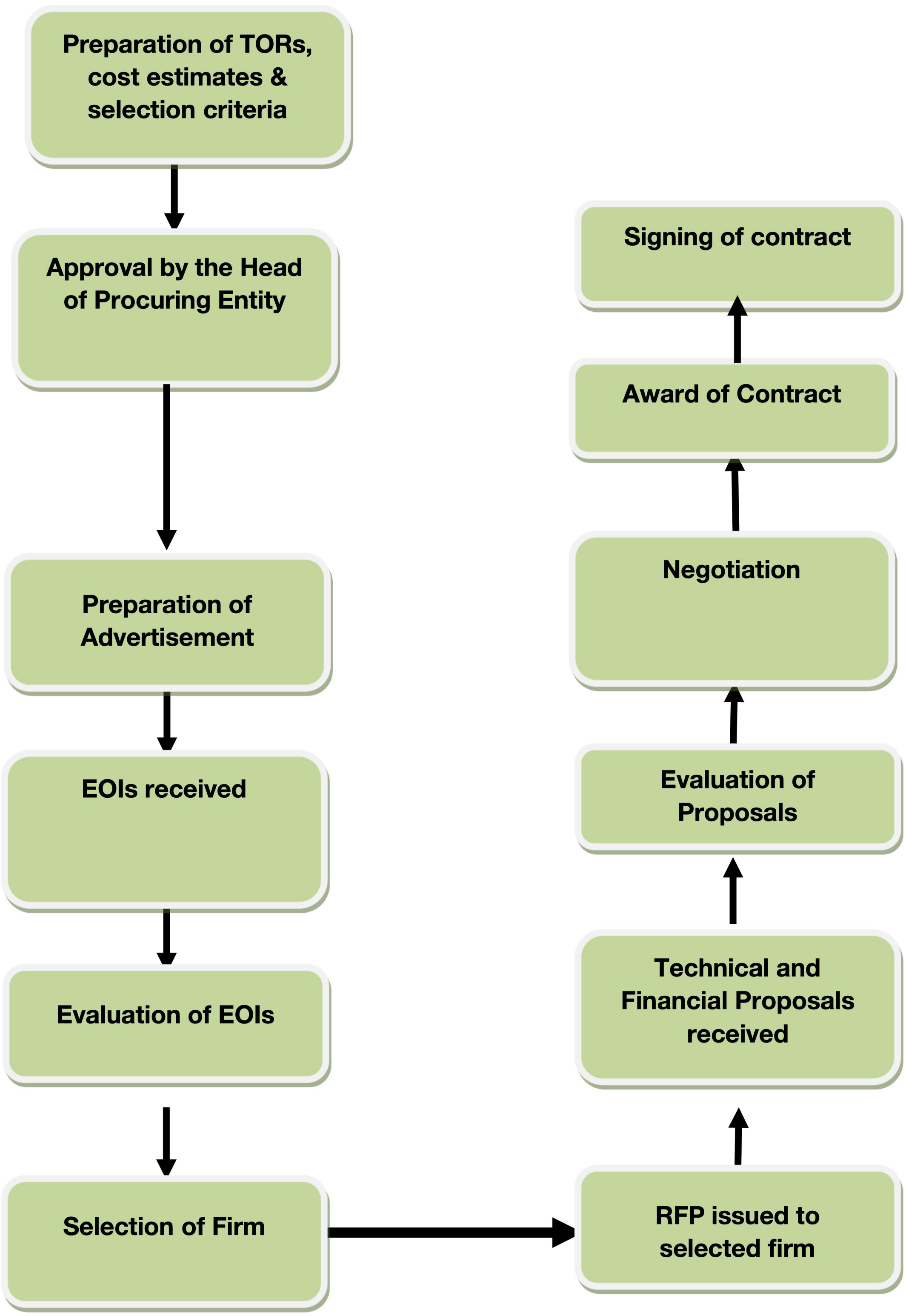
Step 3: The EOIs are received by the PIU. After receipt and evaluation of EOIs, the top ranked firm will be selected.

Step 4:A simplified RFP will be issued to the top ranked firm selected with not less than 4 weeks to prepare and submit the Technical and Financial Proposals.

Step 5: The submitted Technical and Financial Proposals will be evaluated by the appointed Evaluation Committee and negotiations will be carried out with the selected firm.

Step 6: The contract shall be signed by the Parties. Contract management and monitoring shall be done by the PIU.

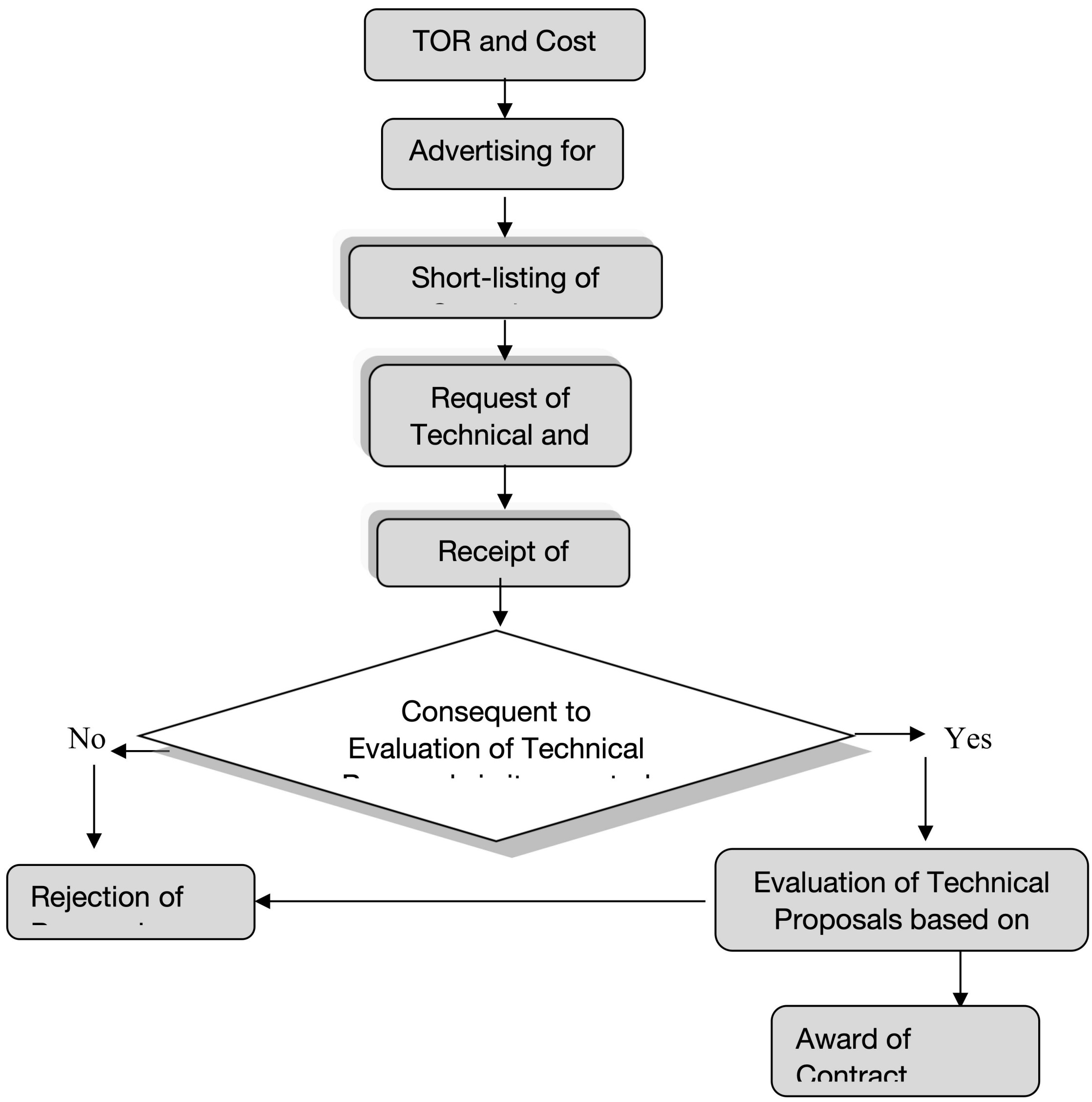
Consultants' Qualifications Based Selection (CQS)



5.7 Least Cost Selection (LCS)

LCS is applicable when the assignments of a standard or routine nature such as audit, engineering design of non-complex works where well-established practices and standards exist. Under this method, a "minimum" qualifying mark for the "quality" is established. Proposals, to be submitted in two envelopes, are invited from shortlisted firms. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark are rejected, and the financial proposals of the rest are opened in public. The firm with the lowest price shall be selected.

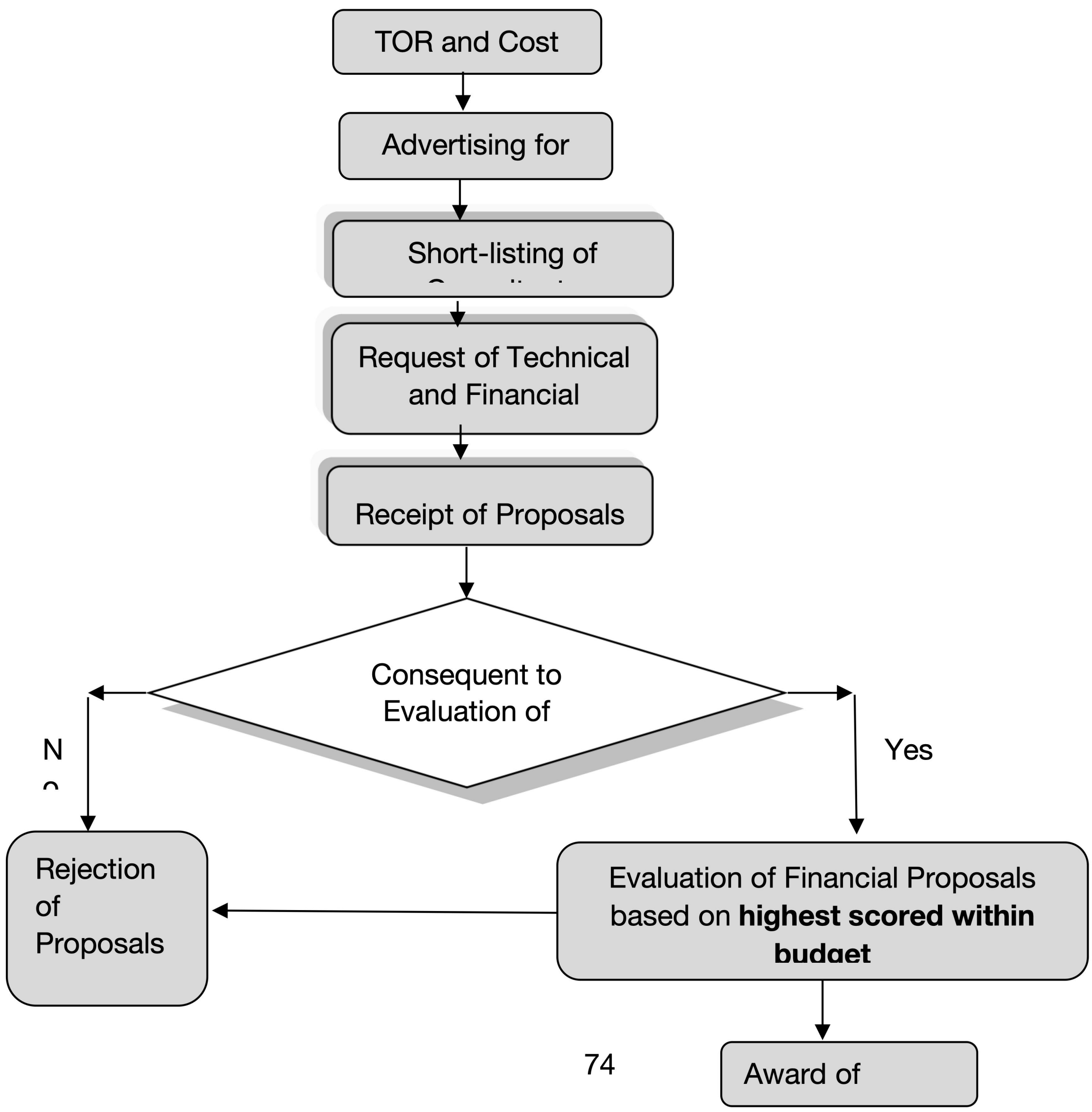
Least Cost Selection (LCS)



5.8 Selection under Fixed Budget (FBS)

This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated budget shall be rejected. The consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract.

Selection under Fixed Budget (FBS)



5.9 Direct Selection (DS)

The PIU may procure the services of any firm/individual consultant without going through the competitive process. Direct Selection procedure will be in accordance with:

- Paragraph 7.13 to 7.15 for Consulting Firms, and
- Paragraph 7.39 of the Procurement Regulations for Individual Consultants.

In case circumstances warrant that a Direct Selection is the only option, a strong justification for considering only one Consultant shall be prepared by the PIU. A justification to use Direct Selection method shall be submitted by the PIU together with the draft procurement Plan which is submitted to the Bank for approval.

During implementation, for contracts estimated to cost above the prior review threshold, a Direct Selection Justification giving reasons why a particular firm is being recommended will be submitted to the Bank for review and No objection before proceeding with the rest of the selection processes.

SECTION 6: PROCUREMENT PROCEDURES UNDER COMMUNITY PARTICIPATION

6.1 Procurement under "Community Participation in Procurement"

106. Under the PforR, it is envisaged that there will be community led local initiatives that will require the communities to participate in the acquisition of small value contracts for goods, services, and works at the Community level. Commonly used procurement procedures will include request for quotations, local competitive bidding inviting prospective bidders for goods and works located in and around the communities, direct contracting for small value goods, works, and non-consulting services, and the use of community labor and resources.

The Community Participation method prescribed in Section 108 of PPADR,2020 describes in sufficient detail all procurement arrangements, including the roles and responsibilities, the extent of participation of the community in general (including the critical role of Community project management and implementation committee), simplified steps for all applicable methods of procurement, provisions for any technical or other assistance required by the Communities , payment procedures, procedures for record-keeping, simplified forms of contracts to be used, and oversight functions of the County Oversight Committees and Coordinating Units .

The FLLoCA Grants Manual describes in detail the funds implementation modalities at county level, flow of funds, reporting and accounting mechanisms.

107. As regards to procurement management, staff with required qualifications and experience will be assigned from the implementing agencies or recruited from the open market. With additional Technical Assistance to strengthen procurement capacity, the

institutions can undertake implementation, facilitation, and coordination of the program with reduced risk. At the national level, the PIU anchored in the TNT&P will be responsible for the implementing procurements under IPF Subcomponents of the proposed FLLoCA Program. At the county level, the relevant department established within the respective County Climate Change Unit (CCU) will spearhead execution of procurement activities under PforR. At the community level, the Community project management and implementation committee with elected leaders (chair, secretary, treasurer and board members) will assist beneficiaries in procurement activities. Wards will be responsible for implementing interventions and related procurement activities that cut across several communities.

6 .2 Implementation and Procurement Considerations

The FLLoCA Program PIU and the Counties will work together with communities in the formulation, design, and implementation of their subprojects. This will entail assessment and identification of those communities that have various degrees of Community Based Procurement (CBP) expertise. FLLoCA shall adopt the many models operating in CDD implementation with relation to procurement. These include but are not limited to:

a) Family Based Private Asset Generating Procurement undertaken by Self Help Groups (SHGs) and Common Interest Groups (CIGs);

b) Village Organization Based Force Account Type Procurement as observed in case of Water Users Associations, Poverty Reduction Committees, Agricultural Producer Companies, Village Development Funds, etc.;

c) Non-Governmental Organization (NGO) Based Procurement Service Agency (PSA) Type Procurement for CDD Implementation; and

d) Third Party 3 Contracted Procurement which is monitored for progress and quality deliverables by the community.

Community based procurement under the different types of Locally-led community activities will require different considerations based on the requirements and community capability to manage procurement.

6.3 Capacity and Risk Assessment

FLLoCA will use WB guidelines and format for assessment of procurement capacity for the Community level projects which shall be documented. Since these will often involve several layers of governance, the assessment will take into consideration the linkages between the entities involved in the program and the impact, if any, that such linkages will have on procurement.

6.3.1 Government Agency

NT through the PIU will oversee the implementing the Community projects at the national level.

6.3.2 County Governments

County Governments will remain accountable for FLLoCA funds allocated to them and will have the responsibility of overseeing the implementation of the Community projects because they are close to the beneficiary communities. They are expected to ensure fiduciary compliance by participating beneficiary communities and intermediaries such as NGOs and contracted private sector firms. The assessment will include analysis on the mandate, responsibilities, and financial capacities of local government authorities. The PIU shall ensure that they are fully aware of the PPADA and the Regulations and the Community level procurement application.

6.3.3 Intermediaries

Intermediaries that assist Communities in procurement could include a government entity, a private sector firm, or an NGO. Intermediaries are used where the community does not have adequate capacity to carry-out procurement. The assessment would cover the capacity of the intermediaries, as well as the coordination and accountability mechanisms with the local governments and the communities to guarantee that technical implementation does not suffer from poor procurement management, and vice versa. The intermediary's procurement management system must be robust enough to cope with and report on community's subprojects.

6.3.4 Communities

The capacity assessment for the communities will be based on a sample of communities with the size of the sample determined on the basis of risk, in order to have a general picture on how communities are organized and will carry out procurement. A rating system on the performance of the community groups while carrying out fair and transparent procurement processes rooted on universal participation in identifying needs, fairness and openness displayed while carrying out the process and good governance principles in selection and management should be part of the assessment. The PIU shall define the minimum requirements that a beneficiary community should fulfil before it can be permitted to handle procurement; the assessment will determine whether communities are able to meet these requirements. The requirements should include the communities' organizational and legal status. Communities that have a defined membership usually have an executive committee that facilitates collective decision making in contracting, while the community's legal status enables the community to enter into contracts and open Bank accounts. The assessment report should identify actions required to strengthen the community's procurement capacity and to mitigate associated risk.

6.4 Procurement Procedures at the Community Level

As a general rule, procurement should be designed to:

- Be simple so as to be understood and implemented by local staff and the community;

- Be sufficiently transparent to permit real competition among suppliers (and recognize limited access to competitive markets) and to facilitate control in the selection of contractors and use of funds;
- Use simple, standardized documentation; and
- Balance risk versus control/management with efficiency considerations.

The procurement procedures to be utilised within the community could include simplified selective tender procedures, shopping, off the shelf purchase and direct contracting in line with the PPADA and the Public Procurement and Asset Disposal Regulations (PPADR) 2020.

6.5 Procurement Methods

a. Shopping for Goods, Works and Non-Consulting Service

Quotations are obtained from at least three qualified suppliers, service providers or contractors on basis of simplified documents. If shopping for works, the documents describe the scope of the works, provide specifications and where possible include drawings. The request for and submission of quotations should be in writing. Quotations should be opened at the same time and to the extent possible in the presence of community members. As a general rule, the supplier or contractor who offers the lowest price should be awarded the contract. If there is sufficient information available in advance as to the need under the program for common use goods or simple works and services, the PIU and the County Government may consider the use of framework agreements to simplify obtaining these requirements by communities implementing subprojects.

b. Local Bidding for goods and works

This is the preferred method since it enhances economy, fairness and equal opportunity to suppliers and contractors. Open tendering procedures may be limited to local advertising using such media as local newspaper or radio, posting notices at strategic places, circulating such notices or reading them out in community meetings or other public gatherings. Target suppliers and contractors are those within the vicinity of the beneficiary community. The request for bids spells out the works or goods required, the criteria for selection, and the deadline for submission of bids. Bids are opened in a public ceremony. The bids are evaluated by a committee appointed by the community. Bids are examined to determine whether they meet the minimum specifications mentioned in the bidding documents (experience, quality of works, equipment, services offered, and delivery dates). Bids that meet the minimum requirements specified in the bid invitation are retained for further evaluation and the bidder who meets the minimum requirements and offers the lowest bid is selected. The award and amount of the contract should be announced to all bidders.

c. Direct Contracting

Direct contracting is a procedure where a supplier or a contractor is selected without applying the competitive methods. This method is used when there is only one source available. Other justifications for direct contracting include urgency, the need to adopt certain technology or a repeat order. To the extent possible, the contract price agreed upon should be within local market rates or established estimates as indicated in a Cost Database which may exist at the County Government. Direct contracting should require approval of the community committee in order to remove the inherent risk of failure to appropriately justify the use of the method.

d. Off the Shelf Purchases

Off the shelf purchases are a form of direct contracting that is used when very low quantities and low overall value of goods or supplies are simply purchased "off the shelf" from an available retail outlet. Provisions and conditions for off the shelf purchase should be specified in the financing agreement with the communities, including monetary thresholds.

e. Community Force Account

Under a community force account, the community implements the subproject using its own resources (skilled and unskilled labor, materials, equipment), and may subcontract part of the subproject. This approach offers several advantages. It is community driven and cost effective (inputs can be provided by the community at below-market costs), and it injects funds into the community (e.g., through the payment of wages and materials). PIU, County Government and Communities involved shall come up with mitigating measures to minimize the potential for abuse (misallocation of funds), the difficulty of estimating and controlling costs if this for any sub-project using this method.

6.6 SOP for Addressing Procurement Related Corruption Issues

12. All FLLoCA procurement units as well as bidders and service providers, i.e., suppliers, contractors and consultants shall observe the highest standard of ethics during the procurement and execution of contracts financed under the program in accordance with Annex IV on Fraud and Corruption of the World Bank Procurement Regulations. This will be in addition to the relevant Articles of the Public Procurement Laws of Kenya which refer to corrupt practices. Administration of procurement related complaints arising in connection with contracts where the Bank's Standard Procurement Documents (SPDs) have been used, and those following international market approaches shall follow the provisions of Annexes II and III of the Bank's Procurement Regulations for IPF Borrowers, dated July 2016 revised in November 2017, July 2018 and November 2020.Contracts following national market approach shall be governed by the provisions set out in the PPADA under Part XV Administrative Review of Procurement and Disposal Proceedings.
13. Counties shall be under obligation to disseminate procurement information and publicize on websites and notice boards the (i) procurement plans; and (ii) awards of contract and (iii) list of contracts completed.

SECTION 7: ANNEXES

ANNEX 1:

7.1 SAMPLE FORMAT GENERAL PROCUREMENT NOTICE

[*COUNTRY*]

[*NAME OF PROJECT*]

[*insert practice area / sector*]

GENERAL PROCUREMENT NOTICE

Loan No./Credit No./TF No./Grant No.

Project ID No.

The [*insert name of borrower*] [*has received/has applied for/intends to apply for*] financing in the amount of US$ [*insert dollar amount*] equivalent from the World Bank toward the cost of the [*insert name of project*], and it intends to apply part of the proceeds to payments for goods, works, non-consulting services and consulting services to be procured under this project. This project will be jointly financed by the [insert name of cofinancing agency].[1]

The project will include the following components [*describe the main project components, and include a brief description of the goods, works, non-consulting services and consulting services to be procured through open international competitive procurement*].

Procurement of contracts financed by the World Bank will be conducted through the procedures as specified in the World Bank's *Procurement Regulations for IPF Borrowers (July 2016) (Procurement Regulations)*, and is open to all eligible firms and individuals as defined

[1] Insert as applicable.

in the *Procurement Regulations*.[2] After project negotiations, the World Bank shall arrange the publication on its external website of the agreed initial procurement plan and all subsequent updates once it has provided a no objection.

Specific procurement notices for contracts subject to open international competitive procurement will be announced, as they become available, in *UN Development Business online, on the World Bank's external website and* [*insert address of free-access website (if available) and/or name of newspaper of national circulation in the Borrower's country and official gazette (if required under national legislation)*].[3]

Prequalification/Initial Selection of suppliers and contractors will be required for the following contracts [*insert names of contracts*].[1]

Interested eligible firms and individuals who would wish to be considered for the provision of goods, works, non-consulting services and consulting services for the above-mentioned project, or those requiring additional information, should contact the Borrower at the address below:

[Insert name of office]

[Insert name of officer and title]

[Insert postal address and/or street address, postal code, city and country]

[Insert telephone number, country and city codes]

[Insert facsimile number, country and city codes]

[Insert email address]

[Insert web site address]

[2] Occasionally contracts may be financed out of tied trust funds that would further restrict eligibility to a particular group of member countries. When this is the case, it should be mentioned in this paragraph.

[3] If known, the dates of issuance of the specific procurement notices for goods, works, non-consulting services, prequalification and initial selection, and the dates of issuance of requests for expressions of interest for consultants' contracts shall be given.

ANNEX 2:

8.2 SAMPLE FORMAT REQUEST FOR EXPRESSIONS OF INTEREST

(CONSULTING SERVICES – FIRMS SELECTION)

[*COUNTRY*]

[*NAME OF PROJECT*]

Loan No./Credit No./ Grant No.: ___________________________

Assignment Title: __________________

Reference No. (as per Procurement Plan): ___________________

The [*insert name of Borrower/Beneficiary/Recipient*] [*has received/has applied for/intends to apply for*] financing from the World Bank toward the cost of the [*insert name of project or grant*], and intends to apply part of the proceeds for consulting services.

The consulting services ("the Services") include [*insert brief description, estimated level of effort (professional staff-months), implementation period, expected start date of assignment, etc. ensuring full consistency with the TOR attached or referred to in this REOI*].

The detailed Terms of Reference (TOR) for the assignment [*insert one of the following:*

are attached to this request for expressions of interest.

Or

can be found at the following website: ***(insert name of the website and URL address or link)***.

or

can be obtained at the address given below.]

The [*insert name of implementing agency/client*] now invites eligible consulting firms ("Consultants") to indicate their interest in providing the Services. Interested Consultants should provide information demonstrating that they have the required qualifications and relevant experience to perform the Services. The shortlisting criteria are: [*insert criteria related to required qualifications and experience of the firm; such as core business and years in business, relevant experience, technical and managerial capability of the firm. The Qualifications and Experience of Key Experts shall not be included in the shortlisting criteria*]. Key Experts will not be evaluated at the shortlisting stage.

The attention of interested Consultants is drawn to Section III, paragraphs, 3.14, 3.16, and 3.17 of the World Bank's "Procurement Regulations for IPF Borrowers" July 2016 [*or insert date of applicable Procurement Regulations edition as per the legal agreement*] ("Procurement Regulations"), setting forth the World Bank's policy on conflict of interest. [*If applicable, insert the following additional text*:] In addition, please refer to the following specific information on conflict of interest related to this assignment: [*insert information on conflict of interest related to the assignment as per paragraph 3.17 of the Procurement Regulations]*.

Consultants may associate with other firms to enhance their qualifications, but should indicate clearly whether the association is in the form of a joint venture and/or a sub-consultancy. In the case of a joint venture, all the partners in the joint venture shall be jointly and severally liable for the entire contract, if selected.

A Consultant will be selected in accordance with the [*insert approved selection method*] method set out in the Procurement Regulations.

Further information can be obtained at the address below during office hours [*insert office hours if applicable, i.e. 0900 to 1700 hours*].

Expressions of interest must be delivered in a written form to the address below (in person, or by mail, or by fax, or by e-mail) by [*insert date*].

[*insert name of office*]

Attn: [*insert name of officer & title*]

[*insert postal address and/or street address*]

[*insert postal code, city and country*]

Tel: [*include the country and city code*]

Fax: [*include the country and city code*]

E-mail: *[include e-mail address]*

ANNEX 3:

8.3 SAMPLE FORMAT CONFLICT OF INTEREST DECLARATION

Evaluation Committee

Name (of person making the Declaration): [insert name]

Position / title: [insert title]

Organization: [insert name of the organization]

Procurement Project: [insert name of procurement project]

Declaration

I understand my role as a member of this procurement Evaluation Committee and I make this declaration in good faith. *Select one of the following two options:*

NO CONFLICT OF INTEREST

- ☐ I have no actual, potential or perceived conflict of interest in relation to this procurement process and my role as a member of the Evaluation Committee and I undertake to carry out my duties with the highest degree of objectivity and integrity.

CONFLICT OF INTEREST

- ☐ I have a conflict of interest.

    1. Select the type of conflict of interest:

        - ☐ Actual: This is an existing conflict of interest, for example: you have a close relative who is a director of one of the firms that has submitted a bid/proposal.

☐ Potential: This is a conflict of interest that is about to happen or could happen, for example: you or a close relative is in the process of being hired by, or acquiring part or full ownership of a firm that has submitted a bid/proposal.

☐ Perceived: This is a conflict of interest which might be reasonably perceived by others as compromising a person's objectivity, for example: you have a close personal friendship with a director of one of the firms that has submitted a bid/proposal.

2. Describe the circumstances giving rise to the conflict of interest:

Signature:	
Date:	

Review of Declaration *this part to be completed by the PIU*

Check the Declaration has been completed and signed. Where a conflict of interest has been declared state how the conflict of interest will be managed:

Conflict of interest management plan:

☐ Remove the EC member from the EC

☐ Impose a restriction on the EC member

☐ Engage an independent adjudicator

☐ EC member relinquishes the business interest that causes the conflict of interest

☐ EC member resigns from the position that causes the conflict of interest.

Provide details:

Person reviewing the Declaration and proposing the management plan *(The person in charge of the procurement project in the PIU)*

Name and title:	
Signature:	
Date:	

Person approving the management plan *(The person responsible for procurement in the PIU)*

Name and title:	
Signature:	
Date:	

Consent of person making the Declaration (*not required if the plan is to remove the person from the EC*)

Signature:	
Date:	