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GRENADA

STATUTORY RULES AND ORDERS NO. 32 OF 2015

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM BY SECTION 67 OF THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY ACT NO. 39 OF 2014 MAKES THE FOLLOWING REGULATIONS—

(Gazetted 17th September, 2015)

PART I
PRELIMINARY

1. Citation. These Regulations may be cited as the

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
PROPERTY REGULATIONS, 2015.

2. Definitions. (1) In these Regulations, unless the context otherwise requires—

“Act” means the Public Procurement and Disposal of Public Property Act, 2014;

“approval thresholds” means the financial limits set down in these Regulations, above or below which certain procurement proceedings may be applied;

“asset” means movable and immovable property, tangible and intangible, including immovable property stores, equipment, shares, intellectual rights vested in the state or proprietary rights;

“Board” means the Public Procurement Board established pursuant to section 6 of the Act;

“Central Procurement Unit” means the Central Procurement Unit established within the Ministry with responsibility for matters relating to procurement, unless the context requires otherwise pursuant to regulation 9;

“chief accountable officer” means the chief executive of a procuring entity;

“day” means a calendar day;

“evaluation committee” means an evaluation committee established pursuant to regulation 13;

“framework contract” means a contract, between one or more procuring entities and one or more suppliers, for the purpose of establishing the terms governing orders for the supply of goods and related services or repair and maintenance works to be placed during a given period, setting out the price, and, where appropriate, the quantity envisaged;

“Minister” means the Minister with responsibility for matters relating to procurement, unless the context requires otherwise;

“Ministry” means the Ministry with responsibility for matters relating to procurement, unless the context requires otherwise;

“pre-qualification procedure” means the pre-qualification procedure set out in these Regulations;

“procurement cycle” means the cycle that starts with the initiation of the process of an individual procurement requirement and ends when the goods, works or services have been delivered and accepted;

“procurement plan” means the document prepared annually by each procuring entity, to plan all procurement requirements necessary to perform the activity plan of the procuring entity;

“procurement unit” means a unit established by a procuring entity, which is responsible for the procurement of goods, works or services;

“public-private partnership” means an agreement between a procuring entity and a private party under which—

- (a) the private party undertakes to perform a public function or provide a service on behalf of the procuring entity;
- (b) the private party receives a benefit for performing the function, either by way of—
 - (i) compensation from a public fund;
 - (ii) charges or fees collected by the private party from the users of a service provided to them; or
 - (iii) a combination of such compensation and such charges or fees; and
- (c) the private party is generally liable for the risks arising from the performance of the function, depending on the terms of the agreement;

“tender” means a tender, proposal or quotation, as the case may be, submitted by a tenderer in response to an invitation by a procuring entity;

“tender committee” means a tender committee established pursuant to section 11 (5) of the Act and regulation 12;

“tenderer” means a person submitting a tender;

“user department” means the department in a procuring entity which initiates procurement proceedings.

(2) Pursuant to section 2 (f) of the Act, “public entity” shall include–

- (a) any body that uses public assets in any form of contractual undertaking including public private partnership,
- (b) a company owned by a public entity to carry out functions that would have otherwise been performed by the public entity; and
- (c) any body in which the Government has a controlling interest.

(3) Words and expressions used in these Regulations and which are used in the Act shall, unless the context otherwise requires, have the same meaning as assigned to it in the Act.

3. Scope of these Regulations. Subject to section 4 (1) of the Act and the exemptions set out in regulation 4, these Regulations govern public sector procurement and disposal of public property in Grenada and apply to all procurement of goods, works, services and other activities carried out by the Government.

4. Exemptions. (1) These Regulations shall not apply to–

- (a) procurement of goods, services and works between Government entities;
- (b) procurement for the production of national honours, medallions and insignias;
- (c) legal services for routine assignments and litigation;
- (d) arbitration and conciliation services;
- (e) outsourcing of Government services to non-governmental organisations and other private entities;
- (f) procurement of goods, works and services by a procuring entity which is a state controlled enterprise or a statutory body where the value of such procurements is below the approval threshold of \$15, 000; or
- (g) any other exemptions issued by instructions or circulars, from time to time, by the Minister.

(2) Where these Regulations conflict with the procuring rules of a donor or funding agency, the application of which are mandatory pursuant to or under an obligation entered into by the Government, the requirements of those rules shall prevail, but procurement in all other respects shall be governed by the provisions of the Act and these Regulations.

PART II

OVERSIGHT AND INSTITUTIONAL ARRANGEMENTS

5. Oversight by the Board. (1) Pursuant to section 6 (2) of the Act, the Board shall have responsibility for every procurement of goods, works and services, where the value of such procurement exceeds the approval threshold of \$1,000,000, whether the procuring entity is a state controlled enterprise, a statutory body or otherwise.

(2) In respect of every procurement by a procuring entity that is a state controlled enterprise or a statutory body, where the value of such procurement exceeds the approval threshold of \$200,000, the Board shall approve the composition of the evaluation committee and review the Tender Evaluation Report.

(3) Where the Board rejects a Tender Evaluation Report, as prepared by an evaluation committee pursuant to regulation 13 (10), the Board may direct the chief accountable officer to appoint a new evaluation committee to conduct a new evaluation pursuant to regulation 13.

(4) Pursuant to subsections (1), (2) and (3) of section 11 of the Act, with respect to every procurement contract purported to be awarded, where the value of such procurement contract exceeds the approval threshold of \$100,000, issuance of a Certificate of Formal Approval or Certificate of 'No Objection' to Contract Award by the Board is required, whether the procuring entity is a state controlled enterprise, a statutory body or otherwise.

(5) Pursuant to section 11 (2) of the Act, no funds shall be disbursed from the Treasury or any bank account of any procuring entity for a procurement the value of which exceeds the approval threshold of \$100,000, unless the cheque, payment or request for payment is accompanied by a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award issued by the Board.

6. Approval thresholds. (1) The approval thresholds for methods of procurement, the authorisation levels for awards of contract and for the signing of contracts shall be as set down in these Regulations and the procurement procedures.

(2) Where the value of a proposed procurement does not exceed the approval threshold of \$200,000, the chief accountable officer of the procuring entity shall be the approving authority and shall sign the procurement contract.

(3) Where the value of a proposed procurement exceeds the approval threshold under subregulation (2), prior to execution of a notification of an award letter and a procurement contract, the chief accountable officer of the procuring entity shall review the Tender Evaluation Report and submit to the Board—

- (a) the Tender Evaluation Report;
- (b) his or her written comments; and
- (c) all other required documentation to the Board,

for the issuance of a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award pursuant to regulation 5.

(4) Every Tenders Evaluation Report shall be approved by the chief accountable officer or the Board, as the case may be, within five business days of receipt of the Tender Evaluation Report.

(5) The person authorised to execute procurement contracts on behalf of the Government shall do so within the time period specified in the contract documents.

7. Responsibilities of chief accountable officer. In addition to the responsibilities stipulated under section 12 (1) of the Act, the chief accountable officer and every public officer to whom responsibility is delegated shall be responsible for—

- (a) in accordance with the Act and these Regulations, appointing a tender committee for procurement of goods, works and services, where the value of such procurement is between the approval thresholds of \$15,000 and \$1,000,000;

- (b) establishing a procurement unit subject to regulation 8;
- (c) on behalf of the procuring entity, signing contracts for procurement and disposal activities for contracts entered into in accordance with the Act and these Regulations;
- (d) preparing the procurement plans; and
- (e) keeping and managing proper records of procurement proceedings in accordance with these Regulations.

8. Procurement unit. (1) A procuring entity shall, in accordance with this regulation, establish a procurement unit to carry out procurement activities.

(2) The chief accountable officer shall determine the size, location, and structure of the procurement unit, having regard to the procurement requirements of the procuring entity and the availability of trained and experienced officers.

(3) Where the level of procurement activity does not justify the establishment of a procurement unit, the chief accountable officer shall—

- (a) nominate a single public officer to carry out the functions of a procurement unit; or
- (b) apply the provisions of subregulation (4).

(4) Where the chief accountable officer determines that there is insufficient procurement activity in the procuring entity to justify establishment of a procurement unit, the chief accountable officer may make a request for the Central Procurement Unit established pursuant to regulation 9 to carry out the functions of a procurement unit on behalf of the procuring entity.

(5) Every procuring entity that directly purchases works, supplies or services from or through the Central Procurement Unit in accordance with subregulation (4) shall be deemed to have complied with these Regulations insofar as the Central Procurement Unit has complied with these Regulations.

9. Central Procurement Unit. (1) The Central Procurement Unit is hereby established in the Ministry to carry out any procurement on behalf of a Government department that has not been authorised as a procuring entity or pursuant to a request under regulation 8 (4).

(2) The Central Procurement Unit shall prepare an annual procurement plan of every major item of expenditure for procurements envisaged to be purchased in any financial year, and shall maintain records of particulars with respect to ad-hoc procurements in the format as provided by the Board.

(3) The Central Procurement Unit shall, on behalf of selected or all procuring entities, organise the purchase of common-use items either under individual contract arrangements or framework contract arrangements.

(4) The Central Procurement Unit shall comply with the procurement procedures set down in these Regulations.

10. User Department. A user department shall be responsible for—

- (a) initiating procurement and disposal requirements and forwarding the same to the procurement unit;
- (b) participating in the evaluation of tenders, proposals and quotations;
- (c) reporting to the procurement unit any departure from the terms and conditions of the procurement contract;
- (d) forwarding to the procurement unit details of any required variations to procurement contracts, procurement unit for consideration and action;
- (e) maintaining and archiving records of contract management;
- (f) preparing any reports required for submission to the procurement unit, the tender committee or chief accountable officer;
- (g) undertaking conformity assessments of supplied goods, works and services with the specifications of the contract documents;

- (h) endorsing the issuance of goods, works and services received notes;
- (i) preparing technical specifications and submitting the same to the procurement unit;
- (j) assisting in the preparation of procurement and disposal plans;
- (k) clarifying matters surrounding tenders, requests for quotations and any other matter as may be required; and
- (l) carrying out any other functions and duties as may be provided under the Act or these Regulations, or as may be stipulated by the Board.

11. Conduct of procurement personnel. (1) Every officer responsible for any aspect of the procurement of a procuring entity, including the requisitioning, planning, preparing and conducting procurement proceedings and administering the implementation of procurement contracts, shall—

- (a) take reasonable steps to ensure that every decision is based on adequate information, and made in good faith, for a proper purpose in accordance with these Regulations and in the best interest of the Government;
- (b) take reasonable steps to ensure fair competitive access by contractors to procurement proceedings and contract awards;
- (c) take reasonable steps to avoid circumstances in which he or she may personally benefit, directly or indirectly through family and associates, as a result of his or her official conduct, or circumstances that would give the appearance of the same;
- (d) not commit corrupt or fraudulent acts, such as the solicitation or acceptance of bribes; and
- (e) not divulge confidential information received in connection with procurement proceedings and tenders, including tenderers' proprietary information.

12. Tender committee. (1) Pursuant to section 11 (5) of the Act, every procuring entity, including a procuring entity that is a state controlled enterprise or a statutory body, shall establish a tender committee which shall be responsible for every procurement by the procuring entity for which the value exceeds the approval threshold of \$15,000 and does not exceed the approval threshold of \$1,000,000.

(2) The functions of the tender committee are—

- (a) to review, verify and ascertain that all procurement and disposal has been undertaken in accordance with the Act, these Regulations and the terms set out in the tender documents;
- (b) to take reasonable steps to ensure compliance with Government policies, guidelines and procedures relating to procurement;
- (c) to review evaluations conducted by evaluation committees and every accompanying Tender Evaluation Report;
- (d) to take reasonable steps to ensure compliance with any reporting obligations relating to procurement by the procuring entity;
- (e) to approve the selection of the successful tender or proposal;
- (f) to award procurement contracts in accordance with the provisions of the Act and these Regulations;
- (g) to take reasonable steps to ensure that funds are available for the procurement under consideration;
- (h) to take reasonable steps to ensure that the procuring entity does not pay in excess of prevailing market prices;
- (i) to review and approve aggregation of procurements, where proposed;
- (j) to review and approve the use of lots, where packaging into lots has been proposed;

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- (k) to review the selection of procurement method and, where a procurement method other than open competitive tendering has been proposed, to take reasonable steps to ensure that the adoption of the other procurement method is in accordance with the Act, these Regulations and any guidelines as may be stipulated by the Board;
- (l) to approve negotiations under the Act, these Regulations and any guidelines as may be stipulated by the Board;
- (m) to approve the amendment of contracts previously awarded by the tender committee, in accordance with the Act and these Regulations;
- (n) to review the quarterly reports on quotations that have been awarded; and
- (o) to undertake any other functions and duties as are provided under the Act, these Regulations or guidelines as may be stipulated by the Board.

(3) In considering submissions made by the procurement unit or evaluation committees, the tender committee may–

- (a) approve a submission; or
- (b) reject a submission with reasons; or
- (c) approve a submission, subject to minor clarifications by the procurement unit or evaluation committee.

(4) The tender committee shall not–

- (a) modify any submission with respect to the recommendations for a contract award under a Tenders Evaluation Report or in any other respect;
- (b) reject any submission without justifiable and objective reasons;

(5) Where the tender committee rejects the recommendation under a Tenders Evaluation Report, the decision shall be reported to the chief accountable officer of the procuring entity.

(6) Where tender committee rejects a submission, the evaluation committee may make a resubmission and the tender committee shall provide an explanation and a justification for its decision.

(7) The chief accountable officer of the procuring entity shall appoint an alternate member for each member of the tender committee and only the alternate shall attend any meeting of the tender committee whenever the member is unable to attend.

(8) The quorum of the tender committee shall be three members including the chairperson.

(9) Decisions of the tender committee shall be by consensus and, where there is no consensus, the decision shall be made through voting by simple majority and, where there is a tie, the chairperson shall have a second or casting vote.

(10) Where any member of the tender committee has a direct or indirect interest in any matter, he or she shall declare his or her interest in the matter and shall not participate in the deliberations or decision-making process of the tender committee in relation to that particular matter.

(11) The tender committee may invite independent advisers, or members of the procurement unit to explain submissions or provide technical advice.

(12) The tender committee shall cause to be prepared minutes of all its meetings and such records shall include—

- (a) a register of attendance;
- (b) the date of the meeting;
- (c) a list of all matters considered;
- (d) the decision made for each matter, including any major issues discussed, the reasons for any rejections and any clarifications or minor amendments to which the approval is subject;
- (e) a note on the basis of any evaluation made;
- (f) any conflicts of interest declared by members;

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- (g) any dissenting opinions among tender committee members; and
- (h) such other records as may be necessary.

13. Evaluation committees. (1) Every evaluation committee shall be appointed by the chief accountable officer.

(2) Every evaluation committee shall comprise no less than three members and no more than five members, and shall include—

- (a) the officer responsible for preparing the tender document;
- (b) the financial officer of the procuring entity; and
- (c) at least one member with expertise in at least one of each of the following—
 - (a) technical expertise;
 - (b) law; and
 - (c) commerce.

(3) An evaluation committee subregulation may comprise—

- (a) a separate financial evaluation committee and a separate technical evaluation committee; or
- (b) a combined financial and technical evaluation committee.

(4) No subregulation member of the tender committee of the procuring entity shall be appointed to the evaluation committee.

(5) The duties of every evaluation committee shall include—

- (a) receiving from the procurement unit the tender opening record and sealed tenders;
- (b) evaluating tenders;
- (c) preparing the Tender Evaluation Report which shall include recommendations for award of a procurement contract;

- (d) submitting for approval the documents under paragraph (c) to the Tender Committee or the Board, as the case may be ;
- (e) responding to any queries raised by the Board; and
- (f) any other functions specified under these Regulations.

(6) Every technical evaluation committee established in accordance with subregulation (3) shall be responsible for–

- (a) the technical evaluation of the tenders or proposals received in strict adherence to the compliance and evaluation criteria set out in the tender documents; and
- (b) performing the evaluation with all due diligence within thirty days after the opening of the tenders.

(7) Every member of the technical evaluation committee shall evaluate tenders or proposals independently and discharge his or her functions prior to sharing his or her analysis, questions and evaluation, including his or her rating, with the other members of the technical evaluation committee.

(8) Every financial evaluation committee established in accordance with subregulation (3) shall be responsible for–

- (a) the financial evaluation of the tenders or proposals received in strict adherence to the compliance and evaluation criteria set out in the tender documents; and
- (b) performing the evaluation with all due diligence within five days after completion of the technical evaluation.

(9) No member of an evaluation committee shall enter into any direct communication with any of the tenderer participating in a tender or proposal that the evaluation committee is considering.

(10) An evaluation committee shall prepare a report on the analysis of the tenders received, and final ratings assigned to each tender and submit the report to the tender committee.

(11) The Tender Evaluation Report prepared under subregulation (9) shall include–

- (a) the minutes of the opening of the tenders;
- (b) the results of the preliminary evaluation, with reasons for rejection of any tenders, where applicable;
- (c) the scores awarded by each member with respect to each tender;
- (d) a summary of the relative strengths and weaknesses of each tender;
- (e) the total score for each tender; and
- (f) a recommendation to award the tender to the lowest evaluated tenderer or to the tenderer who submitted the tender with the highest total score.

14. Transfer of Procuring Responsibility. (1) Pursuant to the provisions of section 12 (3) of the Act, the Board may transfer the procuring responsibility of a procuring entity to another procuring entity, or procuring agent, who is a third party, if—

- (a) the Board determines that the procuring entity lacks the capacity to comply with the Act, these Regulations or guidelines as may be stipulated by the Board; or
- (b) the chief accountable officer determines that it would be more economical or efficient for the Board to discharge the function and makes such a request to the Board.

(2) Where a chief accountable officer makes a request under subregulation (1) (b) the chief accountable officer shall remain accountable for all decisions taken by the procuring entity to which the function is transferred.

(3) Where the procurement and disposal function is transferred to another procuring entity under subregulation (1) (a), the chief accountable officers of the two procuring entities shall agree on—

- (a) every function that may be excluded from the transfer arrangement;
- (b) the mechanism for implementation of the procurement and disposal requirement;

- (c) reporting and monitoring procedures and responsibilities;
- (d) every limitation or exception to the transfer; and
- (e) every cost to be paid.

(4) The agreement for transferring the procuring responsibility under subregulation (3) shall be in writing and signed by the chief accountable officer of each of the two procuring entities.

(5) Every procuring agent shall pay a registration fee to be determined by the Board.

(6) The fee under subregulation (5) shall be payable once and only at the time of the initial registration.

(7) The procuring entity shall—

- (a) meet the cost of the services offered by the procuring agent;
- (b) prepare the terms of reference for the procuring agent assignment in accordance with the provisions of the Act and these Regulations;
- (c) be responsible for the actions and performance of the procuring agent.

(8) Where a procuring agent is engaged by a procuring entity, the tender committee shall adjudicate the contract award.

(9) A procuring entity shall not contract out both the procurement functions and the contract management functions to the same procuring agent.

(10) None of the functions of the chief accountable officer or the tender committee shall be contracted out to a procuring agent.

15. Procurement Approvals. (1) Subject to the Act, every approval relating to any procedures in procurement shall be in writing and properly dated, documented and filed.

(2) No procurement approval shall be made to operate retrospectively to any date earlier than the date on which it is made.

(3) No procurement approval shall be made by a person exercising delegated authority, unless such delegation has been approved by the chief accountable officer.

(4) Every procuring entity shall maintain specimen signatures of all persons authorised to make approvals within the procurement process.

(5) Where a person has been delegated to make an approval in the procurement procedure, the responsibility for each approval shall rest with both the person who delegates the authority and the person to whom the authority is delegated.

PART III

PROCUREMENT PREPARATION AND PLANNING

16. Procurement preparation. (1) Every procuring entity shall use the standard tender documents for procurement as issued by the Board.

(2) The functions of procurement units shall include–

- (a) planning procurement;
- (b) preparing invitations to tender and of tender documents;
- (c) publishing and distributing invitations to tender;
- (d) receiving and safeguarding tender; and
- (e) administering and implementing procurement contracts to the extent that it is not carried out by user departments.

(3) With respect to every procurement contract for which the value does not exceed the approval threshold of \$200,000, the functions of procurement unit shall, in addition to the functions set out under subregulation (2), include–

- (a) conducting the opening of tenders;
- (b) preparing Tender Evaluation Reports; and
- (c) awarding contracts or purchase orders.

(4) With respect to every procurement contract for which the value exceeds the approval threshold of \$200,000, the functions of procurement unit shall, in addition to the functions set out under subregulation (2), include–

- (a) conducting the opening of tenders;
- (b) performing secretariat services for the evaluation committee.
- (c) preparing contract award recommendations for submission to the Board; and
- (d) issuing the notification of award letter and signing the contract.

17. Procurement competence. (1) Every procurement-related function with respect to a procuring entity shall be carried out by persons trained and knowledgeable in procurement in accordance with the guidelines and qualification requirements as may be stipulated by the Board.

(2) Subject to the provisions of these Regulations, a procuring entity shall be responsible for procurement with the funds at its disposal.

18. Planning procurements. (1) Every procuring entity shall take reasonable steps to ensure that each procurement achieves the maximum value for public expenditure such that the procurement is carried out with available financial resources and other applicable limitations and at the most favourable time.

(2) Every procuring entity shall aggregate procurement requirements in order to achieve economies of scale.

(3) Every procuring entity shall, before commencing a procurement process–

- (a) determine whether or not its requirements can be met by the transfer of goods from another department;
- (b) take reasonable steps to ensure that an accurate estimate of the cost of the procurement, including the cost of contingencies that might reasonably be expected to arise under a contract for the procurement has been prepared; and

- (c) commit the amount of the estimate in accordance with the provisions of the approved annual estimates.

19. Artificial division of procurements. No procuring entity shall artificially divide an object of procurement with the intention of avoiding the approval thresholds set out in the procedures applied in these Regulations for the purposes of determining the appropriate procurement method.

20. Division into lots. (1) Notwithstanding the prohibition of regulation 19, a procuring entity may divide a procurement requirement, which could be procured as a single procurement contract, into a package, consisting of several lots which are to be tendered together, where it is anticipated that the award of several separate procurement contracts may result in the best overall value for the procuring entity.

(2) A procurement requirement shall not be divided into lots, where—

- (a) the sole purpose of the division is for avoidance of approval thresholds;
- (b) the award of several separate procurement contracts would create problems of compatibility or interchangeability between items procured as separate lots, or would unduly strain contract administration resources;
- (c) the award of several separate procurement contracts would invalidate or otherwise restrict any provider's warranty or liability; or
- (d) the award of several separate procurement contracts would increase the cost of servicing, maintenance or similar requirements.

(3) Where a requirement that could be procured as a single procurement contract is divided into lots, the procuring entity shall—

- (a) permit tenderers to tender for a single lot, any combination of lots or all lots; and
- (b) demonstrate, prior to contract award, that the recommended contract award or combination of contract awards offers the best overall value for the procuring entity.

21. Annual Procurement Plan. (1) Pursuant to section 11 (b) of the Act, each procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process.

(2) Annual procurement planning shall be integrated with applicable budget processes and based on indicative or approved budgets, where appropriate.

(3) Where appropriate, multi-year procurement plans may be prepared and shall be integrated into the medium term budgetary expenditure framework.

(4) At least thirty days before the close of each financial year, every head of department shall submit an annual procurement plan to the chief accountable officer.

(5) The consolidated annual procurement plan shall be prepared by the procurement unit and approved by the chief accountable officer and, where applicable, approved by the board of directors or a similar body.

(6) Every annual procurement plan under this regulation shall include—

- (a) a detailed breakdown of the goods, works, or services required;
- (b) a schedule of the planned delivery, implementation or completion dates for all goods, works, or services required;
- (c) an indication and justification for whether it shall be procured within a single-year period or under a multi-year arrangement;
- (d) an indication of the items that can be aggregated for procurement as a single package or for procurement through any applicable arrangements for common-user items;
- (e) an indication of the items to be packaged into lots;
- (f) an estimate of the value of each package of goods, works or services required and an indication of the budget available and source of funding; and

(g) an indication of the anticipated procurement method for each procurement requirement.

(7) Where procurement responsibilities have been transferred pursuant to regulation 14, the optimal period of such transfer shall be established by taking into account seasonal price variations, warehousing and distribution capacity, and product shelf life.

(8) The Board shall issue instructions to every procuring entity in the format for preparing procurement plans.

(9) Every procurement requirement shall be initiated using a purchase requisition, which shall include all necessary information pertaining to the procurement.

(10) When estimating the value of the goods, works or services, the procuring entity shall ensure that the estimate is realistic and based on up-to-date information on economic and market conditions.

(11) Approved procurement requisitions shall be submitted to the procurement unit of the procuring entity to initiate procurement proceedings.

(12) Upon receipt of the approved purchase requisition, the procurement unit shall prepare a procurement plan for each procurement requirement, which shall include an estimate of the time required for every stage in the procurement cycle.

22. Procurement records. (1) Pursuant to section 13 (2) (m) of the Act, the following documents shall be treated as part of the procurement records—

- (a) where the procurement or the disposal requirement involves feasibility studies and surveys directly carried out or accepted by the procuring entity in order to prepare the tender documents, the reports and other documents resulting from these studies and surveys;
- (b) every receipt for the sale of tender documents, request for clarifications and clarifications issued by the procuring entity;
- (c) records of any negotiations; and
- (d) end of activity report as may be stipulated by the Board.

(2) The Board may issue guidelines relating to the use, record management, filing and storage of procurement documentation.

(3) Every procuring entity shall maintain an individual file for each procurement requirement, which shall contain all information, documents and communications relating to that procurement proceeding and such file shall be marked with the relevant procurement reference number.

23. Procurement documents. (1) The Board shall issue guidelines on the format of procurement documents to be adopted for approvals and the documentation of the procurement procedure.

(2) The Board may issue standard forms by which a procuring entity shall carry out specific procurement procedures.

(3) The documents shall be clear and bear references to the procurement requirement, dates and signatures of authorising officers.

(4) The Board may, from time to time, issue circulars, manuals and guidelines on the content of procurement documents.

24. Pre-qualification procedure. (1) Where a procuring entity conducts a pre-qualification procedure pursuant to the Act, the procuring entity shall publish an invitation to candidates to submit applications to be pre-qualified.

(2) An invitation referred to in subregulation (1) shall include—

- (a) the name, address and contact details of the procuring entity;
- (b) an outline of the procurement requirement, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract;
- (c) a statement of the key requirements and criteria to pre-qualify;
- (d) instructions on obtaining the pre-qualification documents, including any price payable and the language of the documents; and
- (e) instructions on the location and deadline for submission of applications for pre-qualification.

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(3) Where a procuring entity publishes an invitation pursuant to subregulation (1), the procuring entity shall promptly issue a pre-qualification document to every candidate that makes such a request and shall maintain a record of every candidate to which a pre-qualification document is issued.

(4) A pre-qualification document referred to in subregulation (3) shall contain all the information necessary for a potential candidate to prepare and submit an application for pre-qualification.

(5) Without prejudice to the generality of subregulation (4), such information shall include—

- (a) the name, address and contact details of the procuring entity;
- (b) details of the procurement requirements, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract;
- (c) instructions on the preparation of an application for pre-qualification, including any standard forms to be submitted and the documentary evidence and information required from every candidate;
- (d) instructions on the sealing, labeling and submission of an application for pre-qualification, including the location and deadline for submission; and
- (e) information on the manner in which applications are evaluated.

(6) The procuring entity shall allow every candidate at least fourteen days to prepare and submit an application for pre-qualification.

(7) A candidate may request clarification relating to a pre-qualification document and the procuring entity shall promptly respond to every request for any clarification relating to the pre-qualification document received before the deadline for submission.

(8) Every procuring entity shall, in writing, record the findings of its evaluation of each application for pre-qualification using the evaluation criteria in the pre-qualification documents, and shall set out the particulars of every candidate found to be qualified and of every candidate not found to be qualified including the reasons for the finding that the candidate is not qualified.

(9) The record of findings prepared under subregulation (8) shall be submitted to the tender committee of the procuring entity for approval.

(10) The procuring entity shall invite tenders from only the persons who have been pre-qualified under this Regulation.

25. Domestic preference. (1) Pursuant to section 32 (2) of the Act and where so indicated in the tender documents and in accordance with any rules or schemes for domestic preference issued by the Procurement Division through circulars, a margin of preference may be applied to eligible tenders.

(2) Any rules or schemes issued under subregulation (1) shall clearly set out—

- (a) the eligibility for the margin of preference including with respect to ownership, location of tenderer or production facilities, origin of labour, raw material or components, extent of sub-contracting, association with local partners or any other relevant factor;
- (b) the documentation required as evidence of eligibility for the margin of preference; and
- (c) the percentage of the margin of preference and the manner in which it will be applied during the evaluation.

(3) The percentage of preference in rules or schemes issued by the Board shall be between five and fifteen percent and the Board may review the percentage of preference annually.

26. Termination of contract. (1) A contract document shall set out the grounds on which the contract may be terminated and the procedures applicable to such a termination.

(2) The procurement unit shall make to the tender committee that authorised the contract a request for approval to terminate under subregulation (3), and shall obtain approval from the tender committee prior to terminating the contract.

- (3) Every request for approval to terminate shall clearly state—
- (a) the reasons for terminating the contract;
 - (b) the contractual grounds for terminating the contract; and
 - (c) the cost of terminating the contract.

PART IV**TENDER PROCESS**

27. Conduct of tender process. Every procuring entity shall be responsible for the conduct and management of the entire process for procurement in relation to government contracts for which it is responsible.

28. Standard tender documents. (1) Every procuring entity shall use the relevant standard tender documents for the particular procurement method being utilised.

(2) Pursuant to sections 6 (4) (n) (i) and 15 (3) of the Act, the Board shall prepare and provide standard tender documents for use by procuring entities.

29. Manuals and guidelines. The Board may, in consultation with specific procuring entities, develop internal procurement manuals, administrative guidelines and best practices manuals consistent with the Act and these Regulations and specific to the procuring entities.

30. General conditions of contracts. Every procuring entity shall use the general conditions of contracts as set out in the tender documents, and no condition shall be changed by procurement personnel if, the general provision in the condition contains any of the following—

- (a) operational clauses that establish the relationship between the procuring entity and the suppliers, contractors, or service providers and contain information relating to—
 - (i) definitions;
 - (ii) rights and obligations of both parties;
 - (iii) procedures for shipment and documentation;
 - (iv) delivery and transfer of risk;
 - (v) terms and currencies of payment;
 - (vi) mode and form of dispute settlement;
 - (vii) governing language; and
 - (viii) the applicable law;

- (b) clauses that establish protection against risks and allocate the risks between the parties, including instructions on—
 - (i) performance security;
 - (ii) retention of payments;
 - (iii) insurance;
 - (iv) inspections and tests;
 - (v) warranty;
 - (vi) protection against third party infringement suits;
 - (vii) force majeure; or
 - (viii) a valid, current tax compliance certificate that the tenderer is required to provide upon tendering;
- (c) variations, including unforeseen or planned changes during the life of the contract which are identified and provided for under the general conditions of contract, such as—
 - (i) quantity changes;
 - (ii) adverse physical conditions;
 - (iii) price adjustments; and
 - (iv) changes in delivery requirements; or
- (d) the method of remedying a clause that deals with a breach of contract on the part of one party, and includes provisions on—
 - (i) forfeiture of performance security;
 - (ii) procedures for payment of damages or penalties for delay;
 - (iii) procedure for suspension or termination of contract; and
 - (iv) non-payment or failure to provide required approvals and information.

31. Submission of tenders. (1) Every tender shall be submitted in writing, duly signed and in a sealed envelope.

(2) Every tender received after the deadline for submission of tenders shall be returned unopened.

(3) Applications for pre-qualification or tender may be submitted, at the option of the applicant, by hand or mail or by courier, and every invitation for pre-qualification and tendering documents shall so indicate.

(4) Notwithstanding subregulation (3) and subject to any procurement policy laid down by the Board, the tender documents may authorise other methods of submission of tenders, such as by electronic mail, if the Board can take reasonable steps to ensure the confidentiality and security of tenders notwithstanding submission by the method, including prevention of the opening and reading of tenders by anyone until the opening of tenders at the stipulated time.

(5) Every tender shall remain valid for the period of time specified as the tender validity period in the tender documents to which the tender relates, but modification or withdrawal of a tender during the tender validity period is subject to forfeiture of the tender security.

(6) A tender may be received after expiration of the tender validity period, if the tenderer concerned—

- (a) agrees to an extension of the tender validity period of its tender; and
- (b) where a security was required, obtains a corresponding extension of the tender security.

32. Tender opening. (1) Every tender shall be opened at a time and place as specified in the tender documents to which the tender relates, and the time shall coincide with the deadline for submission of tenders, or shall follow immediately thereafter, allowing a minimum time interval for logistical reasons.

(2) Every tender above the approval threshold of \$1,000,000 shall be opened by the Board and every tender below the approval threshold of \$1,000,000 shall be opened by the procuring entity.

(3) At tender opening session, the following information shall be read out loud and recorded—

- (a) the name of the tenderer;
- (b) the total price of each tender;
- (c) every discount and alternative offered;
- (d) a statement as to the presence or absence of any tender security, where applicable; and
- (e) the contents of essential supporting documents,

except in the case of the use of two-stage tendering by the procuring entity, in which case the procedures set out in regulation 59 shall apply.

(4) A copy of the record shall be made available to any tenderer on request.

(5) No decision regarding the disqualification or rejection of any tender shall be taken or announced in the tender opening session.

(6) After opening of tenders and until the successful tenderer has been notified on preliminary decision on the award, no tenderer shall make any unsolicited communication to the procurement entity or to the Board, or try in any way to influence the examination and evaluation of the tenders by the procuring entity or the Board, as the case may be.

33. Rejection of all tenders. (1) The procuring entity or the Board, as the case may be, may reject all tenders under the following circumstances—

- (a) if the price in the lowest or highest evaluated tender exceeds by a substantial margin the procuring entity's tender cost estimates;
- (b) if all tenders received are not responsive to the requirements in the tender documents; and
- (c) if the procuring entity, after receiving tenders, reasonably concludes that there is lack of competition.

(2) Where all tenders are rejected under subregulation (1), the procuring entity may review and revise the tender documents and, where substantial changes are made to the tender documents, shall invite new tenders on the basis of the new tender documents.

34. Award of contract. (1) Where tenders have been evaluated and a determination is made on the lowest or highest evaluated responsive tender, and a further decision has been made in respect of the award, the procuring entity shall—

- (a) in accordance with these Regulations, obtain the necessary approvals to award the contract;
- (b) not require the selected tenderer to provide performance security in excess of that specified in the tender documents;
- (c) request the selected tenderer to return the signed contract, together with the required performance security, within the time specified in the tender documents;
- (d) notify the unsuccessful tenderers as soon as possible after receiving the signed contract and the performance security;
- (e) send—
 - (i) the notification of the award;
 - (ii) a contract form; and
 - (iii) a performance security form to the successful tenderer indicating the amount of security in the manner and time specified in the tender documents.

(2) Where the successful tenderer fails to return the signed contract or to provide the required performance security, the procuring entity may—

- (a) forfeit the bid security of the successful tenderer; and
- (b) offer the contract to the second lowest evaluated tenderer, if the procuring entity is satisfied that the second lowest evaluated tenderer is capable of performing satisfactorily.

35. Variation of a contract. Pursuant to section 47 (2) of the Act, any variation of a contract shall be effective, if—

- (a) the price variation is based on the prevailing consumer price index at the monthly inflation rate issued by the Eastern Caribbean Central Bank;
- (b) the quantity variation for goods and services does not exceed ten percent of the original contract quantity;
- (c) the quantity variation for works does not exceed fifteen percent of the original contract quantity; and
- (d) the price or quantity variation is to be executed within the period of the contract.

36. Reporting requirements. (1) Every procuring entity shall report to the Board every contract awarded by the procuring entity the value of which is above the approval threshold of \$200,000.

(2) Reporting shall be made on a monthly basis using the standard form provided by the Board.

(3) Every procuring entity shall send, not later than seven days after the end of the reference period—

- (a) the completed form directly to the Ministry; and
- (b) a copy of the completed form to the chief accountable officer, as the case may require, in the Ministry responsible for the proposed contract.

PART V

PROCUREMENT METHODS

37. Procurement methods. (1) The following procurement methods apply to procurement of works, goods and services—

- (a) open competitive tendering;
- (b) selective tendering;
- (c) negotiated procurement;
- (d) request for quotations;
- (e) low value procurement;
- (f) request for proposals for consultancy services; and
- (g) local community procurement.

(2) Each method shall be utilised in accordance with the approval thresholds and in the procurement procedures set out in these Regulations, as well as established criteria through circulars by the Ministry responsible for Finance.

38. Open Competitive Tendering Method. (1) Except as provided under Part VI of the Act and these Regulations, all public procurement of goods, works and services shall be undertaken by the method of open competitive tendering.

(2) Methods of procurement other than open competitive tendering are permitted only in accordance with the provisions of the Act.

(3) The method of open competitive tendering shall apply only to procurement of goods, works and services the value of which exceeds the approval threshold of \$200,000.

39. Invitations to tender. (1) Every procuring entity shall solicit submissions by causing an invitation to tender to be published in accordance with subregulation (2), the provisions of the Act and the other provisions of these Regulations.

(2) An invitation to tender shall set out the following–

- (a) the name and address of the procuring entity
- (b) the tender number assigned to the procurement proceedings by the procuring entity;
- (c) a brief description of the goods, works or services being procured, including the time limit for delivery or completion;
- (d) the nature and time-frame of the procurement, including the place of delivery of goods or services, and the location of any works;
- (e) the manner of obtaining and the price of the tendering documents;
- (f) the place and deadline for submission of tenders;
- (g) such other matters as may be prescribed in the standard forms issued by the Board;

- (h) a statement that the procuring entity does not bind itself to accept the lowest or any tender;
- (i) a statement that every tenderer or a representative thereof may attend the tender opening session; and
- (j) a statement that the procuring entity may, at any time, terminate the procurement proceedings without entering into a contract.

40. Publication of notice of invitation to tender. (1) Every notice under regulation 39 shall be published in at least one newspaper of general nationwide circulation, and, to the extent feasible, on the internet, including on the website of the procuring entity or of the Board.

(2) Every notice under regulation 39 shall be posted on the premises of the procuring entity at any conspicuous place reserved for this purpose as certified by the chief accountable officer of the procuring entity.

(3) Where there are less than four known providers of the goods, works or services to be procured and no additional tenders are likely to be obtained through open competitive tender, an invitation to tender may be sent directly to all known providers.

(4) Where a procuring entity considers it is necessary to ensure wide competition, the procuring entity may send the notice directly to potential tenderers after the date of publication of the notice.

(5) Where a procuring entity sends a notice under regulation 39 directly to tenderers, the procuring entity shall keep a record of every such tenderer, which shall form part of the procurement record.

(6) Every procuring entity shall provide copies of tender documents expeditiously and in accordance with the invitation to tender.

41. Minimum tender periods. (1) Tender documents shall be ready for distribution prior to the publication of announcement of the invitation to tender.

(2) A tender period shall start on the date of the first publication of the announcement and shall conclude on the date of the tender submission deadline.

(3) The minimum tender period shall be—

- (a) thirty days for open competitive tendering; and
- (b) forty-five days for regional and international competitive tendering.

(4) In determining the appropriate tendering period for a procurement, a procuring entity shall take into account, in addition to the minimum tendering period—

- (a) the time required for preparation of tenders, taking into account the level of detail required and the complexity of tenders;
- (b) any need for tenderers to submit authenticated legal documents or similar documents as part of tenders and the time required to obtain such documents;
- (c) the location of potential tenderers and the time required to obtain the tender documents and for the delivery and submission of tenders to the procuring entity; and
- (d) any restrictions relating to the time the goods, works or services are required.

42. Tender documents. (1) Every procuring entity shall use standard tender documents as may be prescribed, including any manuals or guidelines pertaining thereto and issued by the Board.

(2) Every procuring entity shall provide, in an expeditious and non-discriminatory manner, the tender documents to all potential tenderers that respond to the invitation to tender or, in the case of selective tendering under regulation 60 to all tenderers that have been pre-qualified.

(3) The tender documents shall set out the information that tenderers are required for submission of a tender that is responsive to the needs of the procuring entity, including the following particulars—

- (a) the nature and time frame of the procurement, including the contractual terms of the procurement, and the manner of entry into force of the contract;
- (b) a statement that tenderer qualification requirements and the documentation required to satisfy those requirements require the tenderer to indicate that

- the tenderer possesses the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience in the procurement object, business reputation and personnel, to perform the contract as set out in the prescribed regulations and standard tendering documents;
- (c) information as to site visits and pre-tender conferences; and
 - (d) instructions for preparation and submission of a tender, including the deadline for submission of tenders, and the time and place of tender opening;
 - (e) the specific requirements under section 34 of the Act relating to the goods, works or services being procured and the time limit for delivery or completion;
 - (f) where works are being procured, relevant drawings and bills of quantities;
 - (g) the general and specific conditions to which the contract will be subject, including any requirement that performance security be provided before the contract is entered into;
 - (h) information on the components to be reflected in the price, the currency or currencies in which the tender price may be stated, and the currency and related exchange rate to be used for comparison of tenders;
 - (i) the criteria and methodology for evaluation of tenders and selection of the successful tenderer, which shall all be quantified in monetary terms or expressed in the form of pass or fail requirements, where possible, otherwise, by relative weights, and when considering evaluation criteria, the procuring entity shall consider only the following—
 - (i) the tender price; and
 - (ii) the cost of operating, maintaining and repairing the goods or works, the time for delivery of the goods, completion of works

or provision of the services, the functional characteristics of the goods or works, the terms of payment and of guarantees in respect of the goods, works or services;

- (j) any applicable preference for domestic goods, suppliers and contractors;
- (k) any grouping of goods, works or services into lots and packages and the manner of evaluation of the lots and packages;
- (l) a statement on whether alternatives to the technical or contractual specifications would be considered and how any such alternative would be evaluated;
- (m) where suppliers are permitted to submit tenders for only a portion of the goods, works or services to be procured, a description of the portion or portions for which a tender may be submitted;
- (n) the amount and acceptable forms of any required tender, performance or other security;
- (o) the conditions of contract into which the successful tenderer will be entering;
- (p) a notice of conflict-of-interest restrictions and anti-fraud and corruption rules;
- (q) the manner in which tenderers may obtain review of actions, omissions and decisions of the procurement unit;
- (r) a statement on the period during which tenders must remain valid;
- (s) a statement that the procuring entity is not liable for costs incurred by a person in preparing a tender;
- (t) a statement that the procuring entity does not bind itself to accept the lowest or any tender; and
- (u) a statement that the procuring entity may, at any time, terminate the procurement proceedings without entering into a contract.

(4) Every procuring entity shall make a record of the name, postal address, telephone and facsimile number and email address of every person to whom an invitation to tender is issued and shall file a copy of the record in the procurement records.

43. Fee for tender documents. (1) A procuring entity may charge a fee for providing the tender documents.

(2) In determining the fee payable under subregulation (1), a procuring entity shall have regard only to the costs relating to printing, copying, and distribution or of converting the documents into electronic form.

(3) Where tender documents are obtained electronically, the fee payable under subregulation (2) shall be paid at the time of submission of the tender.

44. Modifications to tender documents. (1) Every procuring entity may, by issuing an addendum, amend its tender documents at any time before the deadline specified for submitting tenders.

(2) Where a procuring entity amends tender documents pursuant to subregulation (1), the procuring entity shall extend the time for the submission of tenders as may be appropriate.

(3) An amendment under subregulation (1) may be made on initiative of the procuring entity or in response to an inquiry.

(4) Where a procuring entity amends tender documents pursuant to subregulation (1), the procuring entity shall promptly provide a copy of the addendum to every person to whom the procuring entity provided copies of the tender documents and the addendum shall be deemed to be part of the tender documents.

45. Tender security. (1) Subject to subregulation (5), a procuring entity may require that a tender security be provided with tenders.

(2) Where a tender security is required pursuant to subregulation (1), every tender not accompanied by an acceptable tender security shall be deemed to be non-responsive and disqualified.

(3) The amount of any tender security shall be expressed either as a fixed amount or as a percentage of the estimated value of the contract and shall not in either case exceed ten percent of the estimated value of the contract.

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(4) Where determining the amount of the tender security under subregulation (2), a procuring entity shall take into account—

- (a) the cost to tenderers of obtaining a tender security;
- (b) the estimated value of the contract; and
- (c) the risk of tenderers failing to fulfill the conditions of their tenders.

(5) A tender security required under subregulation (1) shall be in one of the following forms—

- (a) cash;
- (b) a bank guarantee;
- (c) such insurance company guarantee as may be approved by the Board; or
- (d) a letter of credit.

(6) No tender security shall be accepted under these Regulations, unless the tender security is valid for a period not less than thirty days after the expiry of the tender validity period.

(7) Where a procuring entity extends the tender validity period, the procuring entity shall make a request for every tenderer to extend the period of validity of the tender security of the tenderer.

(8) A procuring entity may, where it deems necessary, verify the authenticity of any tender security.

(9) A tender security shall be forfeited, if the tenderer—

- (a) rejects a correction of an arithmetic error under regulation 15; or
- (b) in the case of a successful tenderer, fails within the specified time period to enter into a written contract as required under regulation 21 or fails to furnish any required performance security.

(10) A procuring entity shall immediately release any tender security, if—

- (a) the procurement proceedings are cancelled;
- (b) the procuring entity determines that none of the submitted tenders is responsive; or
- (c) a contract for the procurement is entered into.

(11) A procuring entity may require tenderers to, as an alternative to providing tender securities, sign a declaration to the effect that any of the tenderers will be suspended for the period of time specified in the tendering documents from being eligible to tender for any contract with the entity that invited tenders, if the tenderer—

- (a) withdraws or modifies its tender during the tender validity period; or
- (b) is awarded the contract and fails to sign the contract or to submit a performance security before the deadline defined in the tendering documents.

(12) Every procuring entity shall release and return the tender security of the successful tenderer upon signing of the contract and furnishing the required performance security by the successful tenderer.

(13) Every procuring entity shall, as promptly as possible but not later than thirty days after the expiration of the period of bid validity, release and return the tender security of every unsuccessful tenderer.

46. Submission and receipt of tenders. (1) Every tender shall be in writing, be signed and be sealed in an envelope.

(2) Every tender and the envelope in which it is sealed shall bear the tender number assigned to the procurement proceedings by the procuring entity.

(3) Every tender shall be submitted before the deadline for submitting tenders and every tender received after that deadline shall be rejected and returned unopened.

(4) Every procuring entity shall take reasonable steps to ensure that the place for submission of tenders is open, and accessible and shall provide, in that place, a tender box that complies with the prescribed requirements.

(5) Every tender that is delivered shall be placed unopened in the tender box—

- (a) where delivered by post, by the staff of the procuring entity immediately upon receipt; or
- (b) where delivered otherwise than by post, by the person delivering the tender.

47. Changes to tenders. (1) Before the deadline for submitting tenders, a tenderer may change or withdraw the tender in accordance with the following—

- (a) every change or withdrawal shall be indicated in writing; and
- (b) every change or withdrawal shall be submitted before the deadline for submission of tenders and in accordance with the procedures for submission of tenders.

(2) After the deadline for submission of tenders, a tenderer shall not change, or offer to change, the substance of the tender.

(3) No procuring entity shall at any time attempt to have the substance of a tender changed.

48. Opening of tenders. (1) The chief accountable officer or the Board, as the case may be, in accordance with the approval thresholds set out in these Regulations, shall appoint a tender opening committee comprising—

- (a) not less than three members; and
- (b) at least one member that is not directly involved in the processing or evaluation of the tenders.

(2) After the deadline for submission of tenders, the tender opening committee shall open all tenders received before the deadline.

(3) Any tenderer or a representative thereof may attend the tender opening session.

(4) The tender opening committee shall assign an identification number to each tender.

(5) As each tender is opened, the following particulars shall be read out loud and recorded in a document to be called the “tender opening register”—

- (a) the name of the tenderer;
- (b) in the case of single stage tendering, the total price of the tender, including any alternatives or discounts offered before the deadline for submission of tenders;
- (c) in the case of two stage tendering, confirmation of receipt of the technical tender envelope and the financial tender envelope, and thereafter in accordance with the procedures set out at regulation 59; and
- (d) where applicable, a statement on the presence or absence of any tender security.

(6) Where a tender consists of numerous items that are quoted for separately, the total price of the tender may not be read out at the tender opening session.

(7) The total price of the tender shall not be read out at the tender opening session of the technical tender in the case of use of two stage tendering.

(8) Every procuring entity shall, on request by tenderer, provide a copy of the tender opening register to the tenderer.

(9) Every member of the tender opening committee shall—

- (a) sign each tender on one or more pages, as determined by the tender opening committee; and
- (b) in each tender, initial against the quotation of the price and any modifications or discounts.

(10) The tender opening committee shall prepare minutes of the tender opening session which shall set out—

- (a) a record of the procedure followed in opening the tenders; and
- (b) the particulars of the tenderers, or their representatives, who attended the opening of the tenders.

(11) Every member of the tender opening committee shall sign the minutes of the tender opening session.

49. Tender validity period. (1) The tender shall be valid for such period as may be specified by the procuring entity in the tender documents.

(2) Before the expiry of the tender validity period, a procuring entity may request in writing that the tenderers extend the tender validity period for a specified additional period.

(3) The procuring entity shall give to every tenderer a notice of the request for an extension under subregulation (2).

(4) An extension under this regulation is subject to such restrictions and requirements as may be prescribed.

(5) A tenderer may refuse the request to extend the tender validity period without forfeiting its tender security or having the tender securing declaration executed.

(6) A tenderer who agrees to extend the tender validity period shall not be required or permitted to modify its tender but shall be required to extend the validity of its tender security for the period of the extension in compliance with regulation 45.

50. Clarifications and correction of arithmetic errors. (1) A procuring entity may make a written request to a tenderer for clarification of a tender to assist in the evaluation and comparison of tenders.

(2) No procuring entity shall make to a tender any correction, whether or not on the basis of a clarification received as result of a request under subregulation (1), if the correction changes the substance of the tender, unless the change is with respect to an arithmetic error.

(3) Where a correction is made to an error in a tender, the procuring entity shall give to the tenderer prompt notice in writing of the correction of the error.

(4) Where the tenderer rejects a correction made to an error in a tender, the tender shall be rejected and the tenderer's tender security shall be forfeited.

51. Compliance of tenders. (1) Upon opening of a tender under regulation 46, the evaluation committee shall conduct a preliminary evaluation to determine whether—

- (a) the tender conforms to all the mandatory requirements set out in the tender documents;

- (b) the tender has been submitted in the required format;
- (c) every tender security submitted is in the required form, amount and validity period;
- (d) the tender has been signed by the person lawfully authorised to do so;
- (e) the required number of copies of the tender have been submitted;
- (f) the tender is valid for the period required;
- (g) all required documents and information have been submitted; and
- (h) every required samples have been submitted.

(2) The evaluation committee shall reject every tender that does not satisfy the requirements set out in subregulation (1).

(3) The following do not affect whether a tender satisfies the necessary requirements—

- (a) minor deviations that do not materially depart from the requirements set out in the tender documents; or
- (b) errors that can be corrected without affecting the substance of the tender.

(4) For the purposes of subregulation (3), a deviation shall be—

- (a) quantified to the extent possible; and
- (b) taken into account in the evaluation and comparison of tenders.

(5) Where the procuring entity determines that no tender as submitted satisfied the necessary requirements under this regulation, the procuring entity shall notify every tenderer that no tender was satisfactory.

52. Rejection of tenders. A procuring entity shall reject a tender, if—

- (a) the tenderer that presented the tender is not qualified;

- (b) the tenderer that presented the tender does not accept a correction of an arithmetical error made pursuant to regulation 50; or
- (c) the tender does not satisfy the necessary requirements under regulation 51.

53. Evaluation of tenders. (1) Every tender rejected pursuant to regulations 51 and 52 shall be compared and evaluated in order to ascertain the successful tenderer in accordance with the criteria and procedures set out in the tender documents.

(2) No criteria or procedure other than those specified in the tender documents shall be used in evaluating tenders.

(3) The criteria, including all non-price criteria, shall be, to the extent possible, objective and quantifiable in monetary terms.

(4) Save as otherwise provided in the Act or these Regulations or in any other enactment, the evaluation criteria shall relate to the subject of procurement and may include—

- (a) the price;
- (b) the cost of operating, maintaining and repairing goods or works;
- (c) the time for delivery of goods, completion of works or provision of services;
- (d) the characteristics of the subject of procurement, such as the functional characteristics of goods or works or the environmental characteristics of the subject of procurement;
- (e) the terms of payment and of guarantees in respect of the subject of procurement; and
- (f) where relevant, quality-based criteria, such as the experience, reliability and professional and technical competence of the tenderer and of the personnel to be involved in providing the subject of procurement.

(5) Where considered necessary, a procuring entity may specify trials, sample testing and other additional methods of technical evaluation of a tender, provided that the requirement of such trials, sample testing or additional methods of evaluation shall be indicated in the tender documents and a written record of such trials and testing shall be maintained by the evaluation committee.

(6) A procuring entity shall consider a tender satisfying the necessary requirements under regulation 51 as successful—

- (a) where price is the only award criterion, if the tender proposes the lowest price;
- (b) where there are price and other award criteria, if the tender is the most economically advantageous tender ascertained on the basis of the criteria and procedures for evaluating tenders as specified in the tenders documents; or
- (c) where there are no financial criteria, if the tender is the most economically advantageous tender ascertained on the basis of selected non-financial criteria or other parameters for evaluating tenders as specified in the tender documents.

(7) The evaluation committee shall carry out the evaluation within a period of not more than thirty days after the tender opening session, and shall prepare an evaluation report containing a summary of the evaluation and comparison of the tenders.

(8) A procuring entity or the Board, as the case may be, may make a request to a tenderer for clarification of any element of its tender.

(9) A request for clarification under subregulation (8) shall be in writing or by electronic mail, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the procuring entity or the Board in accordance with regulation 50.

(10) No tenderer shall contact the procuring entity or the Board on any matter relating to its tender from the time of opening of its tender to the time the contract is awarded.

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(11) Where a tenderer wishes to bring additional information to the notice of the procuring entity or the Board, the tenderer shall do so in writing.

(12) Where a tenderer does not provide clarifications on its tender by the date and time set out in the request for such clarification, its tender may be rejected.

(13) Any attempt by the tenderer to influence the procuring entity or the Board, as the case may be, in the evaluation of tenders, tender comparison or decisions on acceptance or rejection of tenders shall result in the rejection of the tenderer's tender.

54. Rejection of abnormally low tender. (1) Where a procuring entity or the Board, as the case may be, is of the opinion that the price of a tender is abnormally low, such that it gives rise to concerns as to the ability of the supplier, contractor or service provider to perform the procurement contract, the procuring entity or the Board shall request, in writing from the supplier, contractor or other service provider, further details of the tender.

(2) Where a procuring entity or the Board, having taken into account any information provided by the supplier, contract or service provider following a request under subregulation (1), is of the opinion that the supplier, contractor or service provider who presented the tender may lack the capacity to perform the procurement contract, the procuring entity or the Board, as the case may be, may reject the tender.

(3) The decision of a procuring entity to reject a tender in accordance with this regulation, the reasons for that decision, and all communications with the supplier, contractor or service provider under this regulation shall be included in the record of the procurement proceedings and shall be submitted to the Board, and the decision of the procuring entity and the reasons for the decision shall be promptly communicated to the respective supplier, contractor or service provider.

55. Notification of award of contract. (1) Every procuring entity shall, before the expiry of the tender validity period, shall notify the successful tenderer that its tender has been accepted, and shall notify every other tenderer that their tenders were not successful.

(2) Upon the entry into force of a procurement contract, the procuring entity shall promptly publish as prescribed, notice of the award of the procurement contract, specifying the name of every supplier,

contractor or service provider with whom the procurement contract was entered into, the goods or services to be supplied, the works to be effected, the date of the award of the contract and the contract price.

56. Creation of contract. (1) The procuring entity shall enter into a written contract with the successful tenderer based on the tender documents, the successful tender and any clarifications or corrections under regulation 50.

(2) The written contract under subregulation (1) shall be entered into within the period specified in the notification under regulation 55 which shall not be before at least fourteen days after the date of receipt of the notification.

57. Refusal to sign contract. (1) Where the successful tenderer refuses to enter into a written contract as required under regulation 56 or fails to provide any required security for the performance of the procurement contract, the procuring entity shall notify, under regulation 55 (1), the tenderer that, in accordance with the evaluation under regulation 53, would have been successful had the successful tender not been submitted.

(2) Regulations 53 and 54 and this regulation shall apply, with necessary modifications, with respect to the tender of the tenderer notified under subregulation (1).

(3) This regulation does not apply to tenders, if the tender validation period with respect to the tenders has already expired.

58. Regional or international competitive tendering. (1) Where there are no local suppliers, contractors or service providers who have the capacity or capability to undertake a procurement, regional or international tendering may be used.

(2) In the case of regional or international tendering, the method of open competitive tendering shall be used in accordance with these Regulations.

59. Single stage and two stage tendering. (1) Subject to the provisions of the Act and the requirements for open competitive tendering, a procuring entity may—

- (a) where all elements are to be evaluated together, call for tenders in one envelope containing the technical aspects and financial aspects and the price; or

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- (b) where it is of the opinion that it is essential to evaluate the technical aspects before considering the financial aspect, call for tenders in two envelopes as follows—
 - (i) the first envelope containing the technical tender which shall set out the technical, quality and performance aspects, commercial terms and conditions; and
 - (ii) the second envelope containing the financial tender which shall set out the price and other financial details.

(2) Where a procuring entity calls for tenders in accordance with subregulation (1) (b)—

- (a) the technical tenders shall be opened first in the presence of the tenderers or representatives thereof who choose to attend, and every tenderer or representative thereof who so attended shall sign a register evidencing their attendance;
- (b) where applicable, every technical tender shall then be evaluated based on the provisions specified in regulation 53; and
- (c) the financial tenders shall remain unopened in the custody of the procuring entity or the Board, as the case may be, until the time of the opening of the financial tenders, which shall be after evaluation of the technical tenders has been completed.

(3) Where a procuring entity calls for tenders in accordance with subregulation (1) (b), with respect to the tenderers whose technical tenders were found acceptable under subregulation (2)—

- (a) procuring entity shall, in writing, notify the tenderers of the time and date and location of the opening for the financial tenders; and
- (b) the financial tenders shall be opened and evaluated in the presence of the tenderers or representatives thereof who choose to attend.

(4) A procuring entity may choose to procure the subject of procurement using the method of two stage tendering, where–

- (a) it is not feasible for the procuring entity to formulate detailed specifications or identify specific characteristics for the subject of procurement, without receiving inputs regarding its technical aspects from tenderers; or
- (b) the character of the subject of procurement is subject to rapid technological advances or market fluctuations or both; or
- (c) the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish commercial viability or to recover research and development costs; or
- (d) the tenderer is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement.

60. Selective tendering method. (1) Every procuring entity, including every procuring entity that is a state controlled enterprise or a statutory body, shall use the procurement method of selective tendering for the procurement of goods, works or services only the value of which exceeds the approval threshold of \$200,000.

(2) A procuring entity may use selective tendering in the case of a procurement the value of which exceeds the approval threshold of \$1,000,000, if the procuring entity, before using the procedure–

- (a) obtains the written approval of its tender committee or the Board;
- (b) records in writing the reasons for using the selective tendering procedure; and
- (c) satisfies the conditions provided in section 34 of the Act.

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(3) Save as is otherwise provided in these Regulations, the procedure for open competitive tendering as set out under the Act and in these Regulations shall, for the purposes of section 34 of the Act, apply mutatis mutandis to selective tendering.

(4) Where selective tendering is used pursuant to section 34 (b) of the Act, the procuring entity shall issue no less than five invitations to tender to the suppliers, contractors or service providers who are already identified for the subject of procurement in accordance with the provisions of section 18 of the Act.

(5) Where selective tendering is used pursuant to section 34 (c) of the Act, the procuring entity shall invite tenders from all the known suppliers of the goods, works or services.

(6) A procuring entity shall, for the purpose of identifying pre-qualified contractors pursuant to section 34 (d) of the Act, use the pre-qualification procedures set out under section 18 of the Act or otherwise as permitted in these Regulations.

(7) The minimum time for the submission of tenders for selective tendering for the purposes of section 34 of the Act shall be a period of twenty days, or thirty days in the case of regional or international tendering.

61. Request for quotations. (1) Pursuant to section 36 of the Act, the procurement method of request for quotations may be used by a procuring entity, including a procuring entity that is a state controlled enterprise or a statutory body, for procurements of goods, works and services, if the value of such procurements does not exceed the approval threshold of \$200,000.

(2) For the purposes of determining the persons to be given a request for quotations under section 36 of the Act, the procuring entity shall—

- (a) prepare a list of qualified persons;
- (b) submit the list prepared under paragraph (a) to the tender committee for approval; and
- (c) take reasonable steps to ensure a fair and equal rotation among the persons on the list kept under paragraph (a) in respect to giving the requests for quotations.

(3) With respect the persons on the list prepared under subregulation (2), the procuring entity shall—

- (a) give the request to no less than three persons but as many person as necessary to reasonably ensure effective competition, unless that is not possible, and with adequate time to prepare a quotation; and
- (b) permit each person to submit one quotation, which shall not be altered or negotiated.

(4) A request for quotations prepared by a procuring entity under section 36 of the Act and referred in regulation (3) shall set out—

- (a) the name and address of the procuring entity;
- (b) the specific requirements prepared under section 34 of the Act relating to the goods to be procured; and
- (c) particulars of the location at which and time period in which quotations shall be submitted.

(5) A request for quotations prepared by a procuring entity under section 36 (3) (a) of the Act shall set out—

- (a) a requirement that quotations be submitted in sealed envelopes; and
- (b) the mode of delivery of the sealed envelopes to the procuring entity.

(6) The opening, evaluation and comparison of quotations received pursuant to a request for quotations under section 36 of the Act shall be carried out jointly by the procurement unit and the user department of the procuring entity.

(7) Where the procurement unit is of the view that the successful quotation is higher than the prevailing market price, the procurement unit shall reject the quotations and repeat the process by giving a fresh request for quotations to a set of new persons in the list which shall be approved by the tender committee.

(8) No procuring entity shall accept a quotation under section 36 (4) of the Act, if the quotation is above the prevailing real market price.

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(9) Pursuant to regulations 5 (4), the issuance of a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award is required for all procurement contracts resulting from a request for quotations the value of which exceeds the approval threshold of \$100,000.

(10) The successful quotation shall be the quotation with the lowest price that meets the requirements set out in the request for quotations and the following shall apply with respect to the contract resulting from a procurement by a request for quotations—

- (a) the procuring entity shall place a purchase order with the person submitting the successful quotation; and
- (b) the person submitting the successful quotation shall confirm the purchase order in writing.

(11) A purchase order referred to in subregulation (10) shall include—

- (a) the quoted price;
- (b) the contract number;
- (c) the name of the contractor or of the supplier;
- (d) the name of the officer of the contractor or of the supplier who signed the contract;
- (e) the terms; and
- (f) the date of delivery.

(12) Where in the interest of effective competition, it is reasonably necessary for foreign persons to participate, the following shall apply—

- (a) the request for quotations shall be in English;
- (b) the technical requirements shall, to the extent compatible with requirements under the law of Grenada, be based on international standards or standards widely used in international trade;

- (c) a person submitting a quotation may, in quoting prices or providing security, use a currency that is widely used in international trade and that the request for quotations specifically allows to be used; and
- (d) any general and specific conditions to which the contract will be subject shall be of a kind generally used in international trade.

62. Negotiated procurement method. (1) Pursuant to section 35 of the Act, the procurement method of negotiated procurement may be used by a procuring entity, including a procuring entity that is a state controlled enterprise or a statutory body, for procurement of goods, works and services the value of which is between the approval thresholds of \$15,000 to \$1,000,000.

(2) Where a procuring entity uses negotiated procurement, the procuring entity shall record the reasons upon which it makes a determination that the relevant condition set out in section 35 (2) of the Act has been satisfied.

(3) The issuance of a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award by the Board is required for all procurement contracts resulting from the use of the method of negotiated procurement.

(4) A procuring entity shall not enter into a contract under section 35 (c) of the Act, unless the procuring entity is satisfied that the contract—

- (a) meets the requirements of the procuring entity as specified under subregulation (1); and
- (b) is at the prevailing real market price.

63. Low-value procurements method. (1) For the purposes of section 37 (2) of the Act, the maximum value for a low-value procurement procedure shall be \$25,000.

(2) The low-value procurement procedure may be used, where—

- (a) no benefit would accrue to the procuring entity in terms of time or cost implications if the procuring entity uses requests for quotations or any other procurement method;

- (b) the procedure is not being used for the purpose of avoiding competition; or
- (c) the use of the procedure has been recommended by the tender committee after a market survey.

(3) For the purposes of section 37 (3) of the Act, the following procedure shall apply in respect to low-value procurement—

- (a) the procurement unit of a procuring entity shall procure the goods, works or services from a reputable outlet or provider;
- (b) an original invoice or receipt for the low-value procurement of goods, works or services and the price paid shall be obtained and signed by the chief accountable officer of the procuring entity undertaking the procurement.

64. Consultancy services. Pursuant to section 39 of the Act, consultancy services shall be procured by using the procurement method of a request for proposals.

65. Request for proposals method. (1) The request for proposals method shall be used for the procurement of consultants providing intellectual and professional services.

(2) For the purposes of procuring the services of a consultant, the procuring entity shall prepare a shortlist of not less than three but not more than six consulting firms, to the greatest extent feasible, comprising consultants of the same category, and similar capacity and business objectives, to which it shall provide the request for proposals for services, and the short-list shall be established from among those who have capacity to perform the required services, as demonstrated in their submissions.

(3) Where the estimated value of the procurement exceeds the approval threshold of \$100,000, in order to establish the short-list, the procuring entity shall seek expressions of interest by publishing a notice in a local or international newspaper of wide circulation, and where appropriate, the notice may also be published in a relevant trade publication or technical or professional journal.

(4) For procurement of a value not exceeding the approval threshold of \$100,000—

- (a) the shortlist may be established from market knowledge or other sources of information; and
- (b) in the case of procurements which have an estimated value exceeding the approval threshold, or are particularly complex, an advertisement shall also be utilised.

(5) The request for proposals shall provide shortlisted tenderers with the information necessary to enable them to participate in the procurement proceedings, and to submit proposals that are responsive to the needs of the procuring entity, and which shall set out—

- (a) the name and address of the procuring entity;
- (b) the nature, time frame and location of the services to be provided, terms of reference, required tasks and outputs;
- (c) the procedures and criteria to be used to evaluate and compare the proposals, including—
 - (i) the procedures and criteria for evaluating the technical proposals which shall include a determination of whether the proposal is responsive;
 - (ii) the procedures and criteria for evaluating the financial proposals; and
 - (iii) any other additional method of evaluation, which may include site visits interviews or presentations, and the procedures and criteria for that additional method;
- (d) a statement giving notice of the restriction, in regulation 70 on entering into other contracts;
- (e) a statement that the procuring entity is not liable for costs incurred by an applicant in preparing his or her proposal;
- (f) a statement that the procuring entity may, at any time, cancel the procurement proceedings, without entering into a procurement contract;

- (g) a statement that the procuring entity does not bind itself to accept the lowest or any proposal;
- (h) final selection procedures to be applied;
- (i) notice of conflict-of-interest restrictions and anti-fraud and anti- corruption rules, including the grounds for potential debarment from future participation in procurement of goods, services or works that may result from the assignment under consideration;
- (j) such matters as may be prescribed in the standard tender documents issued by the Board; and
- (k) a statement that the price of a proposal shall be considered by the procuring entity after completion of the technical evaluation.

66. Methods of selection and conditions for use of selective tendering. (1) The preferred methods of selection shall be as follows–

- (a) Quality and Cost-based Selection, which uses a competitive process among shortlisted consultants that takes into account the quality of the proposal and the cost of the services in the selection of the successful consultant; and
- (b) Selection under Fixed Budget, which shall be used where the assignment is simple and can be precisely defined, and when the budget is fixed.

(2) The Least Cost Selection shall be used with the prior approval of the chief accountable officer and shall be appropriate for assignments of a standard or routine nature including financial audits, architectural and engineering design for non-complex works, where well-established practices and standards exist and in which the contract amount is small.

67. Evaluation of proposals. (1) A procuring entity shall, in the request for proposals in accordance with regulation 66 (5) (iii), establish criteria to evaluate the proposals and assign the relative weight to be accorded to each criterion and the manner in which each criterion is to be applied in the evaluation of–

- (a) the qualifications, experience, reliability, professional and managerial competence of the consultant or service provider and of the personnel to be involved in providing the services;
- (b) the effectiveness of the proposal submitted by the consultant or service provider in meeting the needs of the procuring entity; and
- (c) the proposal price, including any ancillary or related cost.

(2) A procuring entity may accord a margin of preference for local content in accordance with section 32 (2) of the Act, and where this is done this shall be reflected in the record of the procurement proceedings.

(3) Proposals received under regulation 66 shall be examined in accordance with the procedures and criteria for evaluating the proposals as set out in the request for proposals.

(4) An evaluation committee shall be appointed to carry out the evaluation of the proposals received in response to each request for proposals, the composition of which shall be in accordance with subsections (1), (2) and (3) of section 14 of the Act.

(5) For each proposal, the procuring entity shall evaluate the technical proposal to determine whether the technical proposal is responsive and, if this is so, the procuring entity shall assign a score to the technical proposal, in accordance with the procedures and criteria set out in the request for proposals.

(6) Where a evaluation committee determines that a proposal is responsive, the procuring entity shall open the financial proposal and evaluate and assign a score to the financial proposal, in accordance with the procedures and criteria set out in the request for proposals.

(7) Where the request for proposals provides for additional methods of evaluation, including site visits, interviews and presentations, the procuring entity shall conduct such methods in accordance with the procedures and criteria set out in the request for proposals.

(8) The successful proposal shall be the responsive proposal with the highest score determined by the procuring entity by combining,

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for each proposal, in accordance with the procedures and criteria set out in the request for proposals, the scores assigned to the technical and financial proposals under subregulations (5) and (6) and the results of any additional methods of evaluation under subregulation (7).

(9) The procuring entity shall rank the responsive proposals according to their scores so as to arrive at a merit list.

68. Notification of successful proposal. (1) The procuring entity shall notify the person who submitted the successful proposal and whose proposal is ranked as first on the merit list that its proposal was successful.

(2) At the same time at which the person who submitted the successful proposal is so notified, the procuring entity shall notify all other persons who submitted proposals that their proposals were not successful.

69. Negotiations with submitter of successful proposal. (1) The procuring entity shall negotiate with the person who submitted the successful proposal and may request and permit changes.

(2) Where the negotiations with the person who submitted the successful proposal do not result in a procurement contract, the procuring entity shall negotiate with the person who submitted the proposal that would have been successful had the successful proposal not been submitted and whose proposal is ranked as second on the merit list, and subregulation (1) and this subsection will apply, with necessary modifications, with respect to those negotiations.

70. Contract requirements. (1) The procurement contract resulting from a procurement by a request for proposals may not vary from the requirements of the terms of reference, the request for proposals or the terms of the successful proposal, except in accordance with the following—

- (a) the procurement contract may provide for a different price, if there is a proportional increase or reduction in what is to be provided under the contract; and
- (b) the variations must be such that, had the proposal as varies been evaluated again under regulation 10, the proposal would have been the successful proposal.

- (2) The procurement contract must be in writing.
- (3) The procurement contract must set out—
 - (a) the maximum amount of money that can be paid under the contract; or
 - (b) the maximum amount of time that can be paid for under the contract.

71. Regional or international competition for consultancy services. If there will not be effective competition unless foreign persons participate, the following shall apply—

- (a) the notice inviting expressions of interest and the request for proposals must be in English;
- (b) in addition to the advertisement required under regulation 65 (3), the procuring entity shall also advertise the notice inviting expressions of interest in one or more English-language newspapers or other publications that, together, have sufficient circulation outside Grenada to allow effective competition for the procurement;
- (c) the technical requirements must, to the extent compatible with requirements under the law of Grenada, be based on international standards or standards widely used in international trade;
- (d) a person submitting a proposal may, in quoting prices or providing security, use a currency that is widely used in international trade and that the request for proposals specifically allows to be used; and
- (e) any general and specific conditions to which the contract will be subject must be of a kind generally used in international trade.

72. Restriction on entering into certain related contracts. A person who enters into a procurement contract resulting from a request for proposals shall not enter into any other contract for the procurement of goods or works that follows from or is related to that original procurement contract.

73. Individual consultants procurement. (1) This regulation shall be construed pursuant to section 40 (2) of the Act.

(2) A procuring entity that proposes to use an individual consultant as an independent contractor shall comply with this regulation.

(3) A procuring entity may engage an individual consultant on contracts that relate to advisory services assignments or technical opinions on specific matters in which specialist individual knowledge is the most outstanding issue, for which—

- (a) the experience and qualifications of the individual shall be dominant;
- (b) no support from a home office is needed for the individual;
- (c) teamwork or a multidisciplinary approach is not necessary.

(4) For the hiring of individual consultants, the procuring entity shall first prepare brief terms of reference for the assignment, including the scope of work and its estimated budget and the procuring entity shall request expressions of interest from suitable consultants, or advertise, if necessary, requesting them to submit their curriculum vitae.

(5) Subject to subregulation (4), individual consultants who have expressed interest in the assignment, shall then be selected, on the basis of comparison of their qualifications, for the assignment.

(8) Suitability of the candidates under subregulation (4), shall be evaluated on the basis of—

- (a) academic background;
- (b) experience; and
- (c) knowledge of local conditions, where necessary.

74. Local community procurement. (1) Local community procurement may be used in local communities for procurement of goods, works and services the value of which does not exceed the approval threshold of \$100,000.

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(2) Local community procurement may be used where involvement and knowledge of community needs, local issues, and community participation are paramount in the preparation, implementation and operation of community development projects.

(3) The request for quotations method set out at regulation 61 shall apply for local community procurement with quotations being obtained from contractors, suppliers, or service providers within the particular community.

Made by the Minister this 15th day of September, 2015.

KEITH MITCHELL

Minister responsible for matters relating to procurement.

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