



THE ELECTRICITY (PROCUREMENT AND DISPOSAL) GUIDELINES, 2017



2017


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APPROVAL OF THE GUIDELINES

The "**ELECTRICITY (PROCUREMENT AND DISPOSAL) GUIDELINES 2017** have been approved by the Authority at its 279th Meeting held on the 31st of May 2017.



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1.0. INTRODUCTION

1.1. Background

The Electricity Regulatory Authority (ERA), is a Statutory Body established under Section 4 of the Electricity Act, 1999, (Cap 145 Laws of Uganda) to regulate the Generation, Transmission, Distribution, Sale, Export and Import of Electrical Energy in Uganda.

The Authority's functions include, but not limited to:

- (i) To issue Licences for Generation, Transmission, Distribution or Sale of Electricity, and Ownership or Operation of Transmission Systems;
- (ii) To prescribe conditions and terms of Licences issued under the Electricity Act, 1999;
- (iii) To make and enforce directions to ensure compliance with Licences issued under the Electricity Act, 1999;
- (iv) To develop and enforce Performance Standards for the Generation, Transmission and Distribution of electricity;
- (v) To acquire information and carry out investigations relating to any of its functions;
- (vi) To ensure that Licensees carry out the activities which they are Licensed to perform;
- (vii) To ensure that Licensees comply with the conditions of their Licences and protect the interests of consumers.

1.2. DEFINITION OF TERMS

For purposes of these Guidelines unless otherwise inconsistent with the context, the following expressions or words will bear the meaning assigned to them below:

EXPRESSION/WORD	MEANING
Approving Authority (AA)	The designated highest office responsible for the day –to-day running of the Licensee organization
Authority/ERA	The Electricity Regulatory Authority established by the Electricity Act
Bid	An offer to provide or to acquire works; services and supplies or any combination thereof
Bidder	A physical or artificial person intending to participate or participating in a Procurement or Disposal process
Bidding documents	Solicitation documents for works, services, goods or prequalification
Contract	An agreement between the Licensee and a provider resulting from an approved procurement or disposal method
Disposal	Divestiture of a Licensee's asset both tangible and intangible using any of the disposal methods
Emergency	Circumstances which are urgent, unforeseeable and not caused by dilatory conduct
Evaluation Committee	An ad-hoc committee responsible for assessing bids appointed from time to time
Foreign provide	A provider whose business is not registered in Uganda
Open International Bidding	The procurement method which is open to participation on equal terms by all providers, through an advertisement of a procurement opportunity and which specifically seeks to attract foreign providers
Open Domestic Bidding	A procurement method which is open to participation on equal terms by all providers through an advertisement opportunity
Prequalification	A screening process designed to ensure that invitations to bid are confined to capable providers
Procurement	Acquisition of any type of works, services and goods using any contractual means

Procurement Unit	A division within the licensee's organization responsible for the discharge of the procurement and disposal functions
Quotation	A simplified procurement method which compares price quotation obtained from a number of providers
procurement	
Single-Source	A procurement method where the selection of a supplier to supply specific goods, works or services is from a particular supplier despite the existence of more than one supplier in the market due to specific reasons like continuity of service/works, patent reasons etc
procurement	
Solicitation Document	Bidding documents or any other documents inviting bidders to participate in the procurement or disposal proceedings
Sole-Source procurement	A procurement method used in a situation where there is only one supplier of goods, works or services within a specific industry
Restricted Domestic Bidding	A procurement method where bids are obtained by direct invitation from national bidders without open advertisement
Restricted International Bidding	A procurement method where bids are obtained by direct invitation without open advertisement and the invited bidders include foreign providers
User Unit	Any department, division, branch or section of the Licensee which initiates procurement and disposal requirements and is the user of the requirements
Value For Money (VFM)	Obtaining maximum benefit from the resources available. It's about obtaining achieving the right balance between economy, efficiency and effectiveness or spending less, spending well and spending wisely to achieve the set priorities

1.3. LEGISLATION UNDER WHICH ERA OVERSEES PROCUREMENT FOR LICENSEES

- (i) In March 2013, ERA issued the Electricity (Investment Approval and Verification) Guidelines, 2013. In accordance with Section 15 (1-8) of the Guidelines, 2013 value for money would be taken into account in respect to assets procured for purposes of delivering electricity to consumers.
- (ii) These Procurement and Disposal Guidelines will expound on section 15(1-8) of the Investment, Approval and Verification Guidelines 2013, of the Authority.
- (iii) The Procurement and Disposal Guidelines will aid the Procurement and Disposal Strategy of the Licensees to ensure value for money, by selecting the most appropriate procurement methods, based on the risk and value of the procurement; as well as considering the total cost of ownership.
- (iv) The Guidelines will provide guidance to the Licensees on how to conduct Procurement and Disposal Processes in their respective entities. It should be noted that the money spent through procurements and the money received from disposal, if any by the Licensees finally affect the tariff paid by the final consumer of electricity.
- (v) The Guidelines for Licensees in the ESI are to provide an overall framework guidance on the execution of Licensees' Procurement and Disposal activities, and also to help the Licensees in developing their own detailed Procurement and Disposal Manuals that are well tailored to their operations, given their peculiarities in business operations and capacities of expenditure.

2. PURPOSE OF THE GUIDELINES

- (i) The Guidelines will provide Minimum Practicing Standards required of Licensees' Procurement and Disposal Operations;

- (ii) The Guidelines will enable the Licensees to develop their own Procurement Manuals that are robust, flexible transparent while permitting the flexible and innovative solutions that reflect scale, scope and risk mitigation to the desired outcomes; and,
- (iii) Provide a leveled platform during the Investment Approval, Verification and Audit, to ensure the achievement of value for investments recoverable through the Tariff approved by the Authority.

3. SCOPE

The Guidelines apply to all Licensees in the Electricity Supply Industry that undertake investments recoverable through the tariff, approved by the Authority.

In all cases, the Authority shall be satisfied that the procedures used to fulfill the Licensee's obligations to cause the project to be carried out diligently and efficiently; and that the supplies, works and services to be procured;

- (i) Are of satisfactory quality and are compatible with the objectives of the project;
- (ii) Will be delivered or completed in a timely manner; and
- (iii) Are priced so as not to affect adversely the economic and financial viability of the project.

4. OBJECTIVES OF THE GUIDELINES

- (i) These Procurement and Disposal Guidelines are prepared in line with the requirements of the Electricity Act, 1999, section 10 (0) which

require the Authority to ensure a uniform and harmonized rollout of the Power Supply Network Infrastructure and the Investment Approval and Verification Guidelines (Section 15), which require value for money during the process of procuring goods and services in the Electricity Supply Industry.

- (ii) The objective of these Guidelines is to aid the Procurement and Disposal Strategy of Licensees that assures Value for Money (VFM).
- (iii) Value for Money, comprises of three dimension: Economy, Efficiency, and Effectiveness, thus the 3Es concept ensures that the best results possible are obtained from the money spent.
- (iv) VFM shall not necessarily mean selecting the lowest price, but rather the best possible outcome for the total cost for ownership (or whole of life cost). Licensees are to achieve VFM by selecting the most appropriate procurement method, based on the risk and value for procurement; and not necessarily through competitive bidding or the lowest tender.

5. MISS-PROCUREMENT

ERA shall declare Miss-Procurement and Non-Recovery of investment returns for procurement projects which do not satisfy the requirements of these Guidelines.

Investments by Licensees that do not conform to these Guidelines may be disallowed, to form part of the rate base for purposes of tariff determination.

6. PRINCIPLES OF BEST PRACTICE

All Licensee Procurement and Disposal practices are expected to demonstrate a reasonable degree of;

(i) Transparency and Impartiality

Licensees shall present equal conditions and accessibility to all economic operations, by informing potential providers in an open and transparent manner.

Licensees shall respect the confidentiality of information acquired in the course of performing their duties; Not disclosing any such information without having proper and legitimate authority to do so.

(ii) Non Discriminative, Fair and Open Competition

Licensee practices shall encourage non discriminative, fair and open competition amongst bidders in the most efficient and effective way. Licensees shall act fairly during the whole procurement and disposal lifecycle, without imposing unnecessary burdens or constraint on suppliers or potential suppliers, and avoid any unfavorable treatment to specific suppliers.

(iii) Economy, Efficiency and Effectiveness

Licensees shall ensure that efficiency and effectiveness are sought in the procurement and disposal process, to secure value for money for the contracting authority; and minimizing the resources used while having regard for quality.

7. Ethical Conduct

7.1 Fraud and Corruption

All parties in a procurement or disposal shall not engage in fraudulent or corrupt practice.

For Purposes of the Guidelines;

- (i) "Corrupt Practice" means; the offering, giving, receiving, or soliciting directly or indirectly, of anything of value to influence the action of the officials in the procurement process or contract execution;
- (ii) "Fraudulent Practice" means; a misinterpretation or omission of facts in order to influence a procurement process or execution of a contract;
- (iii) "Collusive Practices" means; a scheme or arrangement between two or more bidders, with or without the knowledge of the Licensee, designed to establish bid prices at artificial, non-competitive prices;
- (iv) "Coercive Practices" means; harming or threatening to harm, directly or indirectly persons or their property to influence their participation in the procurement process, or affect the execution of a contract.

The Licensee shall reject a proposal for award if it determines that the bidder recommended for award has, directly, or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question.

8. CONFLICT OF INTEREST

Parties shall declare conflict of Interest that affects or appears to affect judgment; reject gifts, hospitality and benefits of any kind from suppliers or potential supplier, which might be reasonably seen to compromise their objectivity or integrity.

All parties participating in the procurement process shall confirm to abide by the declaration of ethical conduct in the structure, proposed and provided for by the Licensee.

9. ACCOUNTABILITY AND PROFESSIONALISM

The staff of the Licensee shall be accountable for the responsibilities assigned to them, as well as for the decisions made, and keeping all records with regard to procurements.

Licensee staff shall work with the high standards of professionalism by complying with legislation in force and applying procurement best practices.

10. ROLES AND RESPONSIBILITIES

This section provides guidance on structuring the Procurement Function to ensure Professionalism and Accountability. The Licensee shall develop policies to further operations of the proposed structures.

The functional structures for the procurement operations shall be;

- (i) Approving Authority (AA);
- (ii) Procurement Committee (PC);
- (iii) Procurement Unit (PU);
- (iv) Evaluation Committees (EC);
- (v) User Units (UU);

11. APPROVING AUTHORITY (AA)

The AA shall have the overall responsibility for the execution of the procurement process, with regard to the Best Practice Principles.

The AA shall have the following responsibilities:

- (i) Establish and appoint a Procurement Committee (PC);
- (ii) Establish the Procurement Unit staffed to an appropriate level;
- (iii) Communicating award decisions and contracting providers;
- (iv) Investigating any complaints by providers and recommending appropriate action, and;
- (v) Ensuring that contracts are implemented as per terms and conditions.

12. PROCUREMENT COMMITTEE (PC)

The PC shall be composed of a minimum of five (5) persons, appointed by the Approving Authority. The PC shall have a Chairperson appointed by the AA. Any three (3) members of the PC shall form quorum to transact business.

The responsibilities of the PC shall include;

- (i) Approving the Annual Procurement Plan;
- (ii) Approving the list of pre-qualified providers;
- (iii) Approving the Procurement Method, shortlist of providers, invitation notice, bidding documents and contract document; and
- (iv) Approving the Evaluation Report.

13. PROCUREMENT UNIT (PU)

- (i) The PU shall be appropriately staffed to manage the procurement projects of the Licensee.
- (ii) For independence, the PU shall not report or be resident in the Finance Function of the Licensee.

The PU shall have the following responsibilities in regard to procurement among others;

- (i) Recommending and advising appropriate procurement procedures and technical aspects for projects;
- (ii) Implementing decisions of the Procurement Committee;
- (iii) Managing and preparing bidding documents, bid notices;
- (iv) Issuing, receiving and opening bid documents in the manner of best practice;
- (v) Coordinating procurement activities with all necessary functions; and,
- (vi) Maintaining and updating a providers list for the Licensee.

14. EVALUATION COMMITTEE (EC)

The Evaluation Committee;

- (i) Shall be ad-hoc in nature and set up for each procurement;
- (ii) Shall comprise of a minimum of three (3) persons;
- (iii) Membership shall be nominated by the PU and approved by the PC;
- (iv) Shall perform evaluations in line with the appropriate evaluation methodology stated in the bidding document;
- (v) Selection of membership shall be based on technical capability required for the evaluation of the procurement.
- (vi) A member of the Procurement Committee shall not be a member of the Evaluation Committee.

15. USER UNIT (UU)

15.1 The User Unit shall manage the implementation of the procurement in line with the implementation plan and contract terms and conditions;

15.2 The User Unit shall have the following responsibilities;

- (i) Research the technical and financial requirements before submission to PU;
- (ii) Ensure that all contracts are implemented in accordance to contract terms and conditions; and in a cost effective manner;

Report any divergence from contract terms and conditions during contract implementation;

- (iii) Make recommendations for payment to service providers.

16. PROVIDERS AND BIDDERS

- (i) The Licensee shall develop policies on use of providers and bidders;
- (ii) All Licensee providers shall go through an approval process in order to be considered eligible to provide goods, services and works;
- (iii) All Licensees shall maintain an updated list of providers for frequently purchased items, approved by the Procurement Committee (PC).

17. ELIGIBILITY

- (i) To foster non discriminative, fair and open competition, Licensees shall not state requirements that limit participation of the providers;
- (ii) Eligibility requirements shall only be limited to those that are essential to ensure the provider's capability to fulfill the contract in question.

The eligibility requirements for a provider to participate shall be;

- (i) Capacity (Legal or Administrative or otherwise depending on the complexity of the project) to enter into a contract;

- (ii) If legally incorporated; Not being solvent, in receivership, bankrupt or being wound up, not subject to legal proceedings or any circumstances mentioned above, fulfilling tax obligations and social security contributions (if applicable to project);
- (iii) No conflict of interest in relation to subject of procurement;
- (iv) Technically and Financially capable, and;
- (v) Reputable and reliable.

As exceptions to the foregoing: Firms of a country or goods manufactured in a country may be excluded if;

- (i) As a matter of law or official regulation, Uganda prohibits commercial relations with source of goods origin country, provided that the Authority is satisfied that such exclusion does not preclude effective competition for the supply of goods or works required, or;
By an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Uganda prohibits any import of goods from, or payments to, a particular country, person, or entity.

18. PREQUALIFICATION

- (i) Prequalification shall be done for repetitive, large, complex or hard procurements, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition;
Prequalification shall be done to ensure that invitations for bids are extended only to those providers who have adequate capabilities and resources;

Prequalification shall be based entirely upon capability and resources of prospective eligible bidders to perform particular contracts satisfactorily, taking into account;

- (i) Relevant and specific experience, and past satisfactory performance and completion of similar contracts over a given period;
- (ii) Capability of construction and/or manufacturing facilities;
- (iii) Financial position;
- (iv) A standard prequalification document shall be issued to invited bidders who respond to the bid notice;
- (v) Prequalification shall be done to obtain a list of providers from which a shortlist shall be developed to meet immediate and medium term requirements;
- (vi) The general prequalified list shall be updated at least every twenty four (24) months to maintain an up-to-date portfolio of potential providers.

19. DUE DILIGENCE

Licensees shall undertake due diligence to verify eligibility of the bidders. Due diligence shall include;

- (i) Verifying eligibility of documentation;
- (ii) Confirming legal and physical existence of bidders to be awarded;
- (iii) Verifying recommendations or references seconded.

20. PROCUREMENT PLANNING, METHODS AND THRESHOLDS

The Licensee shall develop policies on Procurement Planning, Methods and Thresholds which shall include the sections below.

20.1. Procurement Planning

- (i) As part of the preparation of the procurement, the Licensee shall prepare a realistic Annual Procurement Plan, following approval of the Authority for the investments to be undertaken in a specific investment period;

- (ii) The details of the Procurement Plan shall describe among others the procurement requirement or type of procurement, budget, proposed procurement method, required time;
- (iii) The Licensee shall propose a standard working template to be used in preparing and updating the Procurement Plan;
- (iv) The Procurement Plan template shall set forth a minimum of:
 - (a) A brief description of procurement;
 - (b) Proposed method of procurement;
 - (c) Time scheduled for key procurement activities;
 - (d) Authority reviews or approvals and values.
- (v) The Procurement Plan shall be submitted to the Authority for review at the beginning of the investment period and subsequent updates shall be made as required by the Licensee.

20.2. Procurement Methods and Thresholds

The Licensee shall define financial threshold values that guide the policy on selection of an appropriate procurement method.

Table1:

Procurement Method	Threshold Values	Other Circumstances
<ul style="list-style-type: none"> ✓ Petty Cash Procurement ✓ Quotations/Proposal Procurement ✓ Single Source Procurement ✓ Sole Procurement 	"To be completed by Licensee"	"To be completed by Licensee"

✓ Open International Bidding Procurement	"To be completed by	"To be completed by
✓ Open Domestic Bidding Procurement	Licensee"	Licensee"
✓ Restricted International Bidding procurement		
✓ Restricted Domestic Bidding Procurement		

21. NON COMPETITIVE BIDDING

21.1. Single or Sole Sourcing Procurement

Single or Sole sourcing shall mean contracting without competition; and shall be the appropriate method under the following circumstances;

- (i) An existing contract for goods, works, and services awarded in accordance with procedures, may be extended for additional supplies, works and services of a similar nature;
- (ii) Standardization of equipment or spare parts, to be compatible with existing equipment (It might require the same supplier to complete the supply);
- (iii) For such purchases to be justified, the original equipment shall be suitable, the number of new items shall generally be less than the existing number, the price shall be reasonable, and the advantages of another make or source of equipment shall have been considered;
- (iv) The required supplies or services are proprietary and obtainable only from one source;
- (v) The procurement of certain supplies from a particular provider is essential to achieve the required performance or functional guarantee of an equipment or plant or facility;

(vi) In exceptional cases, such as, but not limited to, in response to natural disasters and emergency situations declared by the Licensee and recognized by the Authority.

21.2. Single or Sole Procurement Projects of USD 1 million and above

Licensees shall obtain prior approval from the Electricity Regulatory Authority of all projects valuing US\$ 1 Million and above, for single or sole procurement before commencement of the procurement process.

22. COMPETITIVE BIDDING AND STANDSTILL PERIODS

Licensees shall propose reasonable minimum bidding periods to enable;

- (i) Sufficient time to bidders to respond to the invitation to bid;
- (ii) Debriefing Notice of unsuccessful bidders.

In all circumstances, competitive bidding shall have a minimum of not less than three (3) working days.

Table 2: Procurement Methods and Bidding Periods

Method of Procurement	Minimum Bidding Period	Debrief Notice period
Open Domestic bidding	<i>To be completed by Licensee</i>	<i>To be completed by Licensee</i>
Open International bidding	<i>To be completed by Licensee</i>	<i>To be completed by Licensee</i>
Restricted Domestic bidding	<i>To be completed by Licensee</i>	<i>To be completed by Licensee</i>
Restricted International bidding	<i>To be completed by Licensee</i>	<i>To be completed by Licensee</i>
Quotations/Proposals Procurement	<i>To be completed by Licensee</i>	<i>To be completed by Licensee</i>
Petty Cash procurement	<i>To be completed by Licensee</i>	<i>To be completed by Licensee</i>

23. PROCUREMENT PROCEDURES

The Licensees shall develop a Procurement Policy which shall incorporate the requirements of the sections below.

23.1. Researching on the Requirement

The Licensee shall be satisfied with what it needs to procure by understanding the generic descriptions of its requirements and the procurement options available to satisfy that requirement.

23.2. Budget Prices

- (i) The Licensee shall take the responsibility of asking potential sources of supply for quotation to inform the budget requirements;
- (ii) The total budgets or costs of ownership or "life-cycle" shall be assumed prior to initiating the tender process;
- (iii) The information obtained in 6.1 and 6.2 shall be used by the Licensee in seeking approval of investments from the Authority.

23.3. Statement of Requirements

- (a) The Licensee specifications, Terms of Reference; or scope of works shall include:
 - (i) A brief overview of Licensee activities;
A background of the requirements or services to be used; and,
 - (ii) A detailed description of what is needed and how it will be used among others.

- (b) The Specifications for requirements shall be made from a brand-less, generic statement of needs accompanied by a request for a whole-life costing of the equipment shall be offered.

23.4. Use of Brand Names

- (a) Specifications shall be based on relevant characteristics and or performance requirements. References to brand names, catalog numbers, or similar classifications shall be avoided.
- (b) If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference.
- (c) The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.
- (d) Brand Names may only be accepted on grounds of compatibility with existing systems and previous investments in the branded item; like for Information Technology Systems.

23.5. Standards

- (a) Standards and technical specifications quoted in the bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and works under procurement.
- (b) As far as possible, the Licensee shall specify national or internationally accepted standards with which the equipment or materials or workmanship shall comply.

- (c) In all cases, the bidding documents shall state that "equipment, material, or workmanship meeting other standards, which promise at least substantial equivalence, may also be acceptable".

23.6. Bid Notices

- (a) The Licensee shall prescribe how suppliers or providers are to know that there is a procurement requirement by a bid notice or a letter of invitation. The notice shall contain a brief description of the requirement, who is eligible to participate, how to participate, address of delivery or where further information can be obtained.
- (b) The bid notices shall be sent to all shortlisted providers within a fair and reasonable period.
- (c) The bid notices shall take the forms of Public Notice or Advert, Restricted Notice or Invitation and Direct Invitation.
- (d) The Licensee shall prescribe the appropriate types of Bid Notices depending on the complexity and nature of procurement requirement.

24. PROCUREMENT OF CONSULTANCY SERVICES

- (a) The Licensee shall use any of the following methods to procure consultancy services:
- (i) Shortlisting following Expressions of Interest;
 - (ii) Shortlisting without expression of interest;
 - (iii) Single or sole sourcing of a consultancy firm or an individual consultant.
- (b) The Licensee shall set the appropriate threshold for each of the above methods.

24.1. Issue of Invitations, Receipt and Bid Opening

- (a) The Licensee shall ensure that all records are kept for Issue of Invitations/Tenders, Receipts and Bid Opening. The records shall include bidder's confirmation and signature and Licensee representative (s) present.
- (b) Technical and Financial offers that are opened shall be authenticated with signatures and or stamps of all witnessing parties on critical pages of submission to avoid fraud.

24.2. Bidding Documents

The Licensee shall develop different tender documents in consideration of the complexity of the procurement, the nature of procurement and requirements of the procurement.

24.3. Standard Bidding Documents (SBDs)

- (a) The Licensee shall approve a standard structure to provide guidance to bidders on tender requirements, and ensure minimum uniformity in the quality of the tender submissions.
- (b) The Standard Bidding Document shall be developed for categories of supplies, works and services.
- (c) The Licensee shall use the standard bidding document to furnish all necessary information to prospective bidders and guide bidders in submitting compliant bids.
- (d) The details and complexity of the bidding documents shall vary with the complexity of the procurement, complexity of bidding procedures and required contract.
- (e) The standard bidding document shall generally include the following sections;
 - (i) Invitation to Bid;
 - (ii) Instructions to Bidders;

- (iii) Bid data sheet;
- (iv) Bidding Forms;
- (v) Statement of Requirements;
- (vi) Selection Criteria and Methodology; and,
- (vii) Contract (General and Special condition and Forms of Contract).

- (a) Different Standard Bidding Documents shall apply to the competitive, non- competitive procurement methods and depending on complexity of requirement.
- (b) The Bidding Document shall specify the basis of selection and the required validity of the Bidders' offers.
- (c) Standard Bidding Documents shall specify whether technical and financial tenders shall be submitted as separate documents in separate sealed envelopes or whether they shall be submitted within one document.
- (d) Licensees shall use their own Standard Bidding Documents approved by the Authority or those of other competent Authorities in case of funding restrictions.
- (e) Bidding Documents shall be worded to permit and encourage maximum competition and shall set forth clearly and precisely the work to be carried out, the location, the suppliers, place of delivery or installation, schedule of completion, minimum performance requirements, as well as any other pertinent terms and conditions.
- (f) The Bidding Documents where appropriate shall define the tests, standards, and methods that will be employed to judge the conformity of supplies delivered, or works performed, with the specifications.

- (g) Drawings shall be consistent with the text of the specifications, and an order of precedence between the two shall be specified.

24.4. Language, Communication and Confidentiality

- (a) English shall be the standard language used in communication of the procurement process.
- (b) All communication between bidders and Licensee shall be in writing. Any information requests from bidders shall also be in writing (email or letter).
- (c) Confidentiality shall be essential to avoid either the reality or perception of improper interference. All procurement information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with the process until the publication of the award.

24.5. Bidding, Standstill and Notification Periods

- (a) The Licensee shall avail reasonable time to notify bidders of procurement opportunities to maximize competition. All notifications and adverts shall contain information concerning; purpose of the project, scope and name of procurement, submission details, telephone and email contacts among others.
- (b) The Licensee shall publish procurement notifications widely to enable awareness of such. Adverts of tender opportunities shall be published on the Licensee's website, notice boards and at least one Newspaper of National or Regional circulation.
- (c) Sufficient time shall be allowed for bidders to respond to bid notices.

24.6. Rejection of Bids

Bidding documents shall provide that a Licensee may reject any or all the bids. Rejection of bids shall be justified when there is lack of effective competition, or all bids are not substantially responsive, or no bidder meets the specified qualification criteria, or the bid price of the most economically advantageous offer is substantially higher than the Licensee's available budget.

24.7. Lack of Competition

- (a) Lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process shall be considered valid, if the bid was satisfactorily advertised, the qualification criteria were not unduly restrictive, and prices were reasonable in comparison to market values.
- (b) If all bids are rejected, the Licensee shall review the causes for the rejection of all bids and make appropriate revisions to the bidding documents before re-inviting bids. The revision of qualification criteria shall be justified only when they were set too stringent.
- (c) If for justified reasons, re-advertisement is not practical or the rejection is due to all of the bids being non responsive, new bids shall be invited, from the initially prequalified firms; or in the absence of prequalification, from all firms that purchased the initial bidding documents.
- (d) The Licensee shall not reject a bid for purposes of obtaining lower price offers. Instead investigations shall be done and negotiations held for the procurement.

24.8 . Selecting the Winning Bid

- (a) The Licensee shall ensure that selecting a winning bid is done transparently and fairly.
- (b) The Licensee shall determine in advance how the selection is done per procurement requirement
- (c) The selection criteria and weighting score shall be communicated to potential bidders in the Solicitation Document at the time of Invitation, and if the bidder does not meet them, the bid shall be rejected.
- (d) The selection criteria and weighting score shall be communicated to potential bidders in the Solicitation Document at the time of Invitation, and if the bidder does not meet them, the bid shall be rejected.

24.9. Selection Methodologies and Criteria

Types of Selection Methodologies:

- (a) The Licensee selection methodologies shall result in selecting the most economically advantageous bid. Selected methodologies shall include but not be limited to;
 - (i) Technical Compliance Selection;
 - (ii) Quality and Cost Based Selection;
 - (iii) Quality Based Selection;
 - (iv) Least cost Based Selection;
 - (v) Fixed Budget Selection;
- (b) The stages of selection criteria shall be proposed to include:
 - (i) Preliminary Selection;
 - (ii) Commercial Selection;
 - (iii) Technical Selection;
 - (iv) Financial Selection;

(v) Post Selection;

Note: The allocation of weights/criteria against each selection stage shall be encouraged to arrive at a logical selection decision.

25. USE OF PREFERENCE SCHEMES AND PROMOTION OF LOCAL INDUSTRY

The Licensee shall apply preference schemes to:

- (i) Goods, works and services, where competitive bidding methods are used, with a specific margin of preference being added during the evaluation process of the bid, which does not qualify for preference.
- (ii) Consultancy services for quality and cost based selection method and least cost selection method where proposals are invited from both national and foreign consultants, with a specific margin being added to the evaluated price of the foreign proposal. In both (i) and (ii) above, the margin of preference shall be added at the financial evaluation stage.
- (iii) Licensees shall include in their procurement manuals deliberate means to promote the local industry in Uganda especially where local providers demonstrate capacity to meet the licensee's needs.

25.1 Notice of Selection

- (a) The Licensee shall have the obligation of informing all the bidders of the selection decision made following the award decision. The communication shall give full details of how the decision was reached, ranking, and reasons for being unsuccessful, scores and price of the successful bidder.

- (b) The Licensee shall give an opportunity to unsuccessful bidders to challenge the award following the announcement of the selection decision.

25.2 Award and Contract

(a) Publication of Award

The Licensee shall publish an award by use of the Licensee notice board or web portal.

- (b) Publications shall include the bid or lot number and the following information, as relevant and applicable for each method:

- (i) The name of each bidder that submitted a bid;
- (ii) Bid prices as read out at bid opening;
- (iii) Evaluated prices of each bid that was evaluated;
- (iv) The names of bidders whose bids were either rejected as nonresponsive or not meeting qualification criteria; and
- (v) The name of the winning bidder, the final total contract price, as well as the duration and summary scope of the contract.

- (c) The Licensee shall award the contract, within the bid validity period to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined:

- (i) To be substantially responsive to the bidding documents; and
- (ii) To offer the most economically advantageous offer.

- (d) A bidder shall neither be required nor permitted, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

26. CONTRACT PREPARATION AND CLAUSES

(a) The basis of contract preparation shall be Mutual Benefit, Equality and the Law applicable.

(b) The form of the contract shall reflect:

- i) Size of Contract;
- ii) Nature of Contract;
- iii) Value of contract; and
- iv) Complexity of Requirement

(c) The sections and clauses to the contract shall include:

- i) Title;
- ii) Risks;
- iii) Insurance;
- iv) Failure to Perform;
- v) Force Majeure;
- vi) Breach of Contract (remedies);
- vii) Social and Environmental concerns;
- viii) Resolutions to Disputes;
- ix) Specifications;
- x) General Clause;
- xi) Main Responsibilities;
- xii) Communication Clauses;
- xiii) Compliance to Specifications;
- xiv) Payment;
- xv) Variations and claims.

26.1. Types of contracts

(a) The Licensee shall determine the contract type appropriate after taking into account the following:

- i) Nature of the requirement;

- ii) The need to minimize risk;
- iii) The need to maximize value for money;
- iv) The likelihood of delays or unforeseen circumstance requiring variations or change orders; and,
- v) The need for effective contract management and cost control.

(b) A selection or combination of the following standard contracts shall be used;

- i) Lump Sum contract;
- ii) Time Based Contract;
- iii) Admeasurement Contract;
- iv) Framework Contract;
- v) Percentage Based Contract;
- vi) Cost Reimbursed contract;
- vii) Target Price Contract;
- viii) Retainer Contract;
- ix) Success Fee Contract.

26.2. Use of INCOTERMS

The Licensee shall define the Incoterm to be applied to internationally related contracts or its equivalent as per the latest version of incoterms.

26.3. Debriefing of Providers

The Licensee shall specify in writing to all bidders who were not selected the grounds on which they were not selected. Such explanations shall be provided promptly prior to award of the contract.

26.4 Contract Implementation and Management

The Licensee shall design a Contract Implementation and Management Policy which shall incorporate the requirements of the sections below:

- (i) Contract implementation and Progress Reviews;
- (ii) Variation and Claims;
- (iii) Payment Contract management records.

27. OTHER PROCUREMENT OPTIONS FOR LICENSEES

The Licensees shall opt to undertake their procurements by:

- (i) Outsourcing the procurement and disposal function to a consultancy firm;
- (ii) Seeking ERA support (advisory and guidance) for complex procurements or transactions.

28. DISPOSAL OF ASSETS

- (a) The Licensee shall develop a Disposal Policy that will encompass the requirements of the sections below.
- (b) Disposals shall be conducted in a manner that demonstrates the underlying principles of;
 - (i) Transparency and Impartiality;
 - (ii) Non Discriminative, Fairness and Open Competition;
 - (iii) Economy, efficiency and effectiveness (Value for Money);
 - (iv) Accountability and Professionalism;
 - (v) Ethical Conduct;

29. DISPOSAL PLAN

- (a) The Licensee shall prepare a Disposal Plan of intended disposal items and submit to the Authority for approval.
- (b) The Licensee shall propose a standard working template to be used in preparing the Disposal Plan.

29.1 Contents of Disposal Plan

The Disposal Plan template shall set forth a minimum of;

- (i) Asset Description (Code, Location, Disposal Value, Life time of Asset, Year of Purchase);
- (ii) Reason for Disposal;
- (iii) Disposal Method;
- (iv) Minimum Residual Value; and,
- (v) Time of Disposal.

29.2 Disposal Methods

The Licensee shall choose from the following disposal methods;

- (i) Public Bidding;
- (ii) Auction;
- (iii) Direct Negotiation;
- (iv) Sale to employees;
- (v) Conversion of Asset;
- (vi) Trade In;
- (vii) Destruction.

29.3. Selection of Disposal Method

- (a) The selection of a disposal method shall take into consideration;
 - (i) Security and Public Interest;
 - (ii) Health and Safety concerns;
 - (iii) Legal and Human Rights concerns;
 - (iv) Environment and Social concerns;
 - (v) Residual Value; and,
 - (vi) Economy of method.

- (b) The proposed disposal method shall be approved by the Procurement Committee before commencement of the disposal process.

29.4 Valuation and Reserve Price

- (a) A Licensee shall obtain a valuation for an asset prior to the commencement of disposal proceedings.
- (b) The valuation shall be obtained based on either of the methods below;
 - (i) Valuation by an Independent Authority;
 - (ii) Residual or Net book value and Market value.

29.5. Notices for Disposal

- (a) The Licensee shall communicate to potential bidders through a disposal notice, its intention to dispose off assets.
- (b) The Notice shall include a summary of all assets intended to be disposed off.

29.6. Inspection of Assets for Disposal

The Licensee shall allow a bidding period for bidders to inspect the items to be disposed off. This period shall vary from disposal to disposal method.

The venue for inspection of assets for disposal shall be communicated to all interested bidders in the disposal notice.

29.7 Selection and Award

Selection for disposals shall be based on price, with the highest bidder taking the asset.

29.8. Receipt and Submission

The Licensee shall keep evidence of records of disposal of assets such as;

- (i) Receipt of payment;
- (ii) Acknowledgement of transfer of ownership of asset;
- (iii) Destruction Reports;
- (iv) Any other relevant documents.

30. REPORTING TO AUTHORITY

(a) The Licensee shall report the results of the disposal to the Authority in a report with details of:

- (i) Financial Returns from disposal activity if any;
- (ii) Evidence of non-financial returns from disposal activity;
- (iii) Destruction certificates signed by a competent authority in case of disposal by destruction.

(b) An updated Asset Register shall be submitted to the Authority on;

- (i) Annual Basis with application for approval of Investment with useful assets and assets to be disposed of.

Appendix A

PROCUREMENT CHECKLIST

S/No.	Procurement Stage	Yes	No	Not Applicable
1	Justification of the procurement			
2	Approval by ERA			
3	Procurement Plan Reference			
4	Approval by the Procurement Committee			
5	Solicitation Document			
6	Shortlist of Providers			
7	Procurement Method			
7a	Invitation to Providers			
7b	Receipt of Bids			
7c	Close of receipt of Bids			
7d	Bid Opening			
8	Evaluation			
8a	Committee			
8b	Methodology and Criteria			
9	Award and Contracting			
9a	Negotiation			
9b	Contract Document			
10	Contract Management			
10a	Implementation and progress review			
10b	Payment			
10c	Variation and claims			
11	Contract Management and Closure Report			

Appendix B

DISPOSAL CHECKLIST

S/No	Disposal Stage	Yes	No	Not Applicable
1	Justification			
2	Approval by ERA			
3	Disposal plan Reference			
4	Valuation of Assets			
5	Reserve Price			
6	Disposal method			
6a	Invitation for disposal			
6b	Receipt of offers			
6c	Closing and Opening of offers			
7	Evaluation of offers			
8	Negotiation and award			
9	Disposal certificate			
10	Disposal Report			