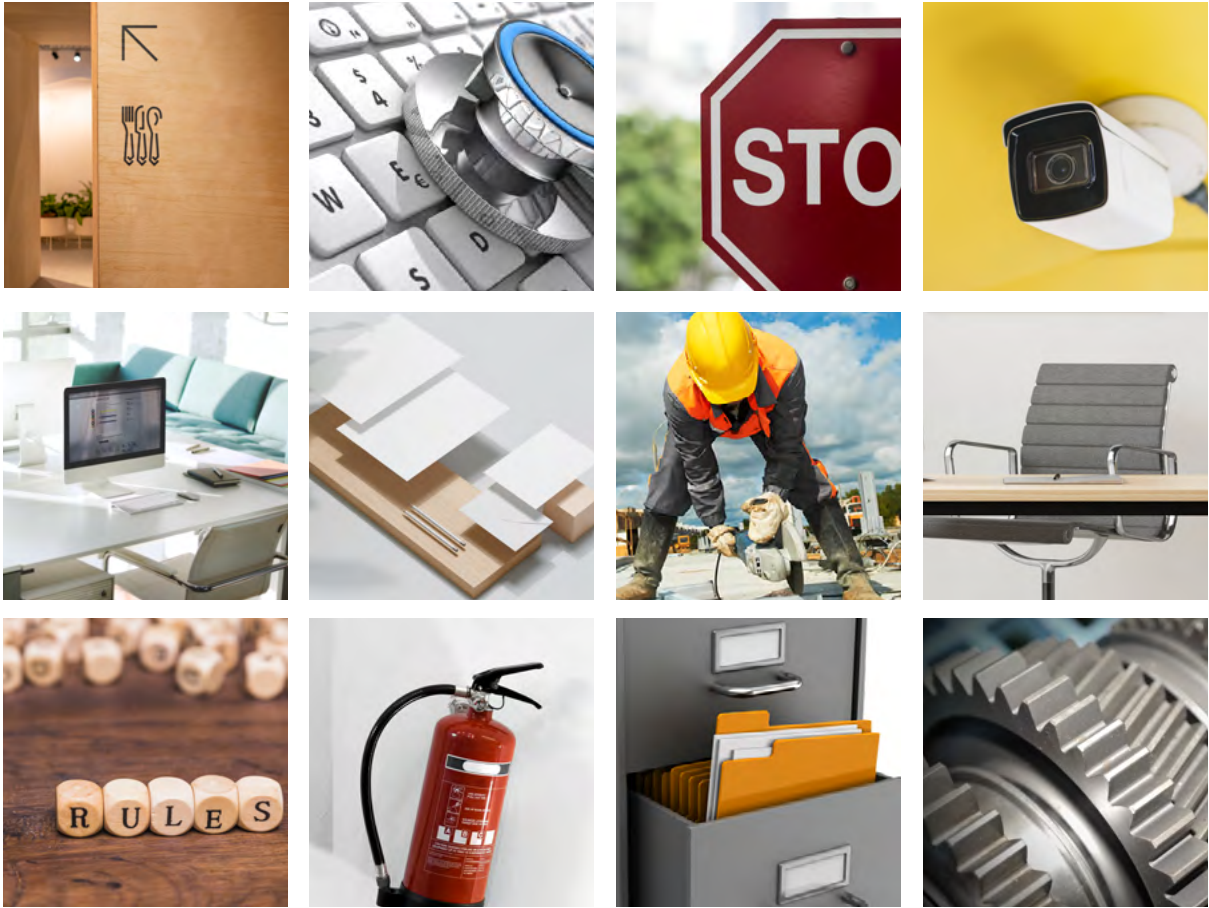




BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO



INTERNAL PROCUREMENT REGULATIONS OF EBID

JUNE 2021



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JUNE 2021

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PREAMBLE

These Regulations are drawn from international legal instruments and standards governing the award and execution of public contracts and framework agreements. They include in particular:

- The Multilateral Government Procurement Agreement (GPA/WTO) adopted on 15 April 1994 on the award of public contracts;
- The UNCITRAL Model Law adopted through the United Nations General Assembly Resolution No. 49/54 of 9 December 1994 on Public Procurement;
- Revised UNCITRAL Model Law on Public Procurement adopted by Resolution No. 66/95 of the United Nations General Assembly on 9 December 2011;
- The SDGs 12 and 16 on Sustainable Procurement and Social Inclusiveness;
- The Paris Declaration of 2005, the 2007 Accra Plan, the 2011 Busan Consensus on Effectiveness of Official Development Assistance;
- WAEMU Directives 004 and 005 of December 9, 2005 on rules for awarding, controlling and regulating public contracts;
- The new ECOWAS procurement code of January 2020;
- MDBs procurement guidelines, manuals and standard documents;
- European Commission Directives 2014/7/18/25 on Procurement;
- Resolutions adopted at the MENA Conference on Procurement (World Bank, 2012);
- ICC Regulation No. 458 on Contract Guarantees;
- Article 39 of Chapter 7 of the UN Charter on Embargo.

ACRONYMS AND ABBREVIATIONS

CA	Contracting Authority
GPN	General Procurement Notice
MAPP	Multilateral Agreement on Public Procurement
IIT	International Invitation to Tender
AfDB	African Development Bank
EBID	ECOWAS Bank for Investment and Development
WB	World Bank
MDBs	Multilateral Development Banks
CCI	International Chamber of Commerce-Paris
ECOWAS	Economic Community of West African States
ESC	Ethics and Sanctions Committee
UNCITRAL	United Nations Commission on International Trade
PU	Procurement Unit
DRC	Dispute Resolution Committee
DAGS	Department of Administration and General Services
DG MARKET	Development GATEWAY Market
ADF	African Development Fund
GENIS	Maintenance Group by Service Level
KONEPS	Korean Online E-procurement System
MCC	Millennium Challenge Corporation
SDGs	Sustainable Development Goals
WHO	World Health Organisation
WTO	World Trade Organisation
UNO	United Nations Organisation
SMEs	Small and Medium Enterprises
PP	Procurement Plan
PPP	Public Private Partnership
PRPP	Person Responsible for Public Procurement
SBDB	Selection Based on a Determined Budget
SICs	Selection of Individual Consultants
SBQC	Selection Based on the Quality of the Consultant
SBCQ	Selection Based on Consultants' Qualifications
SBTOC	Selection Based on Technical Quality and Cost
SLC	Selection at Least Cost
WAEMU	West African Economic and Monetary Union
UNDB ONLINE	United Nations Development Business Online
UNGM	United Nations Global Marketplace

PREFACE



The ECOWAS Bank for Investment and Development (EBID), having evolved over the years, has significantly improved its governance and compliance systems through the review and development of existing and new policies, introduction of industry best practices, and the establishment of robust procedures, to ensure the judicious use of resources to deliver optimum value.

I am particularly pleased to have overseen the development and publication of the Internal Procurement Regulations of EBID. Hitherto, the Bank had relied heavily on documents from other institutions which though commendable, had many inherent challenges owing to not being tailored to fit the peculiar operations requirements of the Bank while supporting its strategic ambitions. Though useful, these documents have not been able to adequately guide the Bank through the modern trends of procurement given the focus on technology, ethical sourcing, and the current scope of a diverse and complex yet accessible global supply chain.

Thus, the publication of the Internal Procurement Regulations of EBID, crafted by staff of the Procurement Department, comes as a very useful and timely initiative to bolster the governance mechanism of Bank in its quest to become an impactful DFI in the subregion. I wish to congratulate all contributors who have spent precious time and effort to review the current processes and practices and have been able to develop the new procurement regulations.

Documents of this nature provide guidance, consistency, accountability, efficiency, and clarity on how an organization operates. It gives a clear understanding of expectations with respect to standards of conduct

and performance and defines the boundaries that are consistent with the values of the institution. In addition to providing all the aforementioned, these regulations are practical, provide effective documentation, and clearly define the scope and authority matrix for effective monitoring of all types of procurement within the Bank.

As President of this institution, I charge all staff to embrace these regulations by increasing awareness of the provisions therein, aligning current practices to ensure conformity and full compliance, and embedding these regulations without shortcuts and variations. This is the only way to ensure accountability and the derivation of value in our procurement processes. I am confident that all stakeholders will wholly support the dissemination and application of the Internal Procurement Regulations of EBID to ensure the protection of the values of our great institution in its efforts to transform ECOWAS communities.

George Agyekum Donkor PhD, DBA

President and Chairman of the Board of Directors



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PART ONE: GENERAL PROVISIONS



1

CHAPTER ONE : DEFINITIONS

Article 1: Definitions

Sustainable procurement: Procurement from a contracting authority which, in defining precisely the nature and scope of its needs, takes into account sustainable development goals in relation to their economic, social and environmental dimensions, before the launch of a procurement procedure.

Deed of Commitment: Constituent document of the contract, signed by the recipient of a public contract or a framework agreement in which he or she establishes his or her offer and undertakes to comply with the clauses governing the specifications and the proposed price. This deed is then signed by the public entity.

Closed framework agreement: The framework agreement is said to be closed when the second stage of the selection process is reserved only for candidates with whom the agreement is signed.

Open framework agreement: The framework agreement is open when third party candidates can join the initial parties at the second stage.

Start-up advance: A sum paid to a contractor before the actual commencement of the contract. It is usually intended to cover the start-up costs of the project. It is always covered by a guarantee of the same amount.

General Procurement Notice: A written advertisement placed in major newspapers and platforms to inform potential bidders about procurement opportunities available at the level of the Initiating Entity during a given fiscal year. It is often subsequent to the approval of the basic or revised procurement plan.

Specific Procurement Notice: A written announcement broadcast on the appropriate media channel to specify the precise conditions for participation in and award of a particular tender.

Contracting Authority: A legal person of public or private law empowered to award and sign a contract in accordance with these regulations.

Advance payment: Partial payment made in settlement of executed fractions of an agreed supply of goods, services or works.

Framework agreement: An agreement concluded between one or more contracting authorities and one or more contracting parties with the purpose of establishing the terms governing contracts to be

awarded during a specified period, in particular regarding prices and the quantities envisaged, where appropriate.

Allocation: Breakdown of a contract into several lots for economic, financial or technical reasons. Each lot is an autonomous unit that is allocated separately.

Bid Acceptability Analysis: A procedure that verifies that the bid solicited by any method conforms to the commercially-acceptable price.

Invitation to Tender: Method of contracting applicable to the purchase of supplies, works and non-consultant services above a threshold determined within the framework of these regulations. As far as this procedure is concerned, the criteria for awarding the contract are not determined solely by price but on the basis of pre-defined technical and financial considerations.

Contract Award: Bidder whose bid has been solicited but whose contract has not yet been signed.

Independent auditor: A natural or legal person who does not fall under the administrative authority of the sponsor, selected to carry out an audit of the procurement system on the basis of technical and ethical capabilities.

Start-up advance: Payment of part of the amount of a contract before the start of contract execution. The payment of advances is generally subject to the provision of a bank guarantee or insurance certificate of equivalent amount.

Endorsement: Contractual act modifying certain clauses of the basic contract to adapt it to events occurring after its signing.

Notice of Expression of Interest: Invitation issued by the contracting authority to solicit intentions to participate in a pre-selection procedure for consultants *intuitu personae* or firms, in connection with a contract for intellectual services. Notices of Expression of Interest may also be organized to establish a database of suppliers or to participate in meetings.

Purchase Order: Form signed and dated by the contracting authority or its representative and addressed to a contract holder to notify him of the administrative, technical, financial and fiscal conditions of execution of the said contract. It is a miniature contract generally applicable to low-value, non-complex contracts.

Bidding slip: Price table on which the works, supplies and services are subdivided and for which the bidder is obliged to enter a unit price.

Contract Specifications: A written document presenting a detailed description of a requirement in terms of the acquisition of non-consulting supplies, works or services.

Candidate: Natural or legal person participating in a pre-selection procedure.

Application: Set of files submitted by an applicant in response to a pre-selection file.

Central purchasing body: Structure under the supervision of the contracting or private authority in charge of coordinating purchasing operations for one or more contracting authorities.

Co-contracting party: Any individual or legal entity holding a contract or purchase order signed by the Parties.

Ordinary Procurement Committee: Standing Committee set up by the Contracting Authority to open bids, initial and analyse them and make recommendations for the award of any contract below the threshold set under these rules.

Special Procurement Committee: Standing Committee established by the Contracting Authority to open, initial and analyse tenders and make recommendations for the award of any contract above the threshold set under these regulations.

Competition: A competitive selection method by which a project, plan or artistic work is selected in accordance with the rules of a panel of adjudicators set up for this purpose. At the end of this procedure, a winner is selected and then the two projects ranked consecutively second and third are awarded.

Performance contract: Contract whose execution or renewal is based on the contractor's performance.

GENIS contract: Contract in which the contractor is not subject to an obligation of means but of results.

Request for Quotation: Simplified procedure for consulting firms, suppliers or service providers for the award of certain contracts below a threshold determined under these regulations.

Competitive dialogue: Two-stage procedure applicable to the procurement of supplies, works and non-consultant services for which the Contracting Authority does not have the appropriate legal, technical and financial expertise. Based on an invitation to tender, this approach, initially, allows for the collection of only technical solutions. These are then refined by the Contracting Authority to obtain final technical and financial offers.

Electronic procurement: A digital device that allows the entire procurement process (from the expression of needs to the closing of the contract) to be conducted with little or no human intervention.

Community enterprise: An enterprise whose registered office is located in an ECOWAS Member State or in which at least 51% of the capital is held by ECOWAS shareholders.

Performance Guarantee: A real or personal guarantee given to ensure the proper execution of the contract, both from a technical point of view and in terms of execution time.

Bid Guarantee: Real or personal guarantee provided by the bidder to ensure its participation in the procurement process up to the signing of the contract.

Guarantee for the return of the start-up advance: Real or personal guarantee provided to ensure the return of the advance granted by the contracting authority to the contract holder in connection with the performance of the contract.

Joint Grouping: Entity formed by several bidders who decide to join together to participate in a call for tenders consisting of operations divided into lots. Each of its members undertakes to execute and/or the lots that are likely to be awarded to it in the contract.

Group of Companies: Group of companies having subscribed to a single deed of commitment and represented by one of them acting as a joint representative. The group of companies is joint-and-several liability companies.

Joint and several grouping: The grouping is joint and several when each of its members is committed to the entire market, whether or not the operation is divided into lots.

Prime contractor: Natural or legal person of public or private law charged by the contracting authority, within the framework of the performance of works, with missions of design and assistance towards the execution and acceptance of the services, object of the contract at the end of a project management agreement.

Project owner: Legal entity under public or private law, final owner of the work or technical equipment, subject of the contract.

Delegated project owner: Legal entity of public or private law which receives from the project owner, delegation of part of its powers. The delegation takes the form of a mandate entrusted to a third party. It is the subject of a delegated project management agreement.

Standing order: Contract by which the contracting authority covers its current annual needs for supplies,

the exact size of which cannot be predicted at the beginning of the year or which exceeds the storage capacity.

Customer contract: Contract by which the contracting authority undertakes to entrust, for a limited period that may not exceed one year, renewable twice, the execution of all or part of certain categories of services defined by the regulations in force, according to orders made as and when required.

Public contract: A written contract entered into by which a contractor, supplier or service provider undertakes to the contracting authority either to carry out work or to provide goods or services or a combination of them in return for remuneration.

Complementary contract: A contract entered into without advertising or competitive bidding, allowing additional services of a similar or complementary nature to those performed by a contracting party to be ordered by mutual agreement from the other party. Their system differs from that of endorsements

Public supply contract: A contract for the purchase, lease, rental or hire-purchase, with or without an option to purchase, of goods of any kind, including raw materials, products, equipment and objects in solid, liquid or gaseous form, as well as services incidental to the supply of such goods.

Public contract for intellectual services: A contract that has as its object services whose predominant element is not physically quantifiable. It includes in particular delegated project management contracts, operation management contracts, project management contracts, and contracts for the management of the project itself, as well as contracts for the provision of services.

Public works contract: A contract whose object is either the execution, or the design and execution for the benefit of a contracting authority of all building, civil engineering, rural engineering or repair works of any kind.

Mixed type public contract: Contract falling under one of the above-mentioned categories which may include, as an accessory, elements falling under another category. The procedures for the award and execution of public contracts must take into account the pre-dominant category.

Turnkey contract: A public contract under which a contractor undertakes to deliver a complete work in working order, from design to acceptance after verification, where appropriate, of its performance guarantees.

Design-build contract: Public works contract under which an economic operator or group of economic operators is entrusted with a mission covering both the preparation of studies and the execution of works.

Design, construction, operation and maintenance contract: An overall public performance contract that combines operation or maintenance with the construction or design and implementation of services in order to meet quantified performance objectives defined in particular in terms of level of activity, quality of service, energy efficiency or environmental impact.

Innovation contract: Public contract concluded with an economic operator or a group of economic operators, the purpose of which is to research and develop innovative products, services or works, as well as the acquisition of the resulting products, services or works and which meet a need that cannot be met by the acquisition of products, services or works already available on the market.

Conditional franchise contract: Public contract consisting of a firm tranche and one or more optional tranches.

Contract Amount: Total amount of expenses and remuneration for the services covered by the contract, subject to any addition or deduction that may be made thereto under the terms of the said contract.

Observer: Qualified natural person selected by the Contracting Authority or from a technical and financial partner to participate in the work of an ordinary or special contracts committee in order to provide expertise.

Service order: Contractually established document setting prices, deadlines, programmes and other terms and conditions for the execution of a contract.

Offer: All the technical and financial elements included in the tender file.

Lowest bid: Offer in conformity with the technical and administrative specifications whose price is the lowest, among all the offers presented,

Abnormally low offer: An offer whose amount is unreasonably low in relation to the scope of the specifications or terms of reference.

Economically most advantageous offer: An offer that is more advantageous to the contracting authority taking into account the combined technical and financial factors and not necessarily the lowest price.

Freeze Period: A period of 15 working days between the date of publication of provisional and final results. This period allows for the receipt and processing of potential remedies from the complainants.

Pre-qualification: Selection procedure applicable to the procurement of non-consulting supplies, works or services that allows for the pre-qualification of bidders on the basis of their technical and financial capacity to participate in a tender for a complex purchase.

Procurement Authority: The contracting authority's agent in the procurement and contract execution procedures.

Services: Any works, supplies, services or intellectual works to be performed or provided in accordance with the subject matter of a contract.

Direct labour: Services whose performance is entrusted by a contracting authority either to one of its departments or public establishments, or to any other entity which may be considered as a simple administrative extension of the contracting authority, such services, establishments and other entities being subject to the public procurement code to meet their own needs.

Ex gratia Remedy: Complaint or claim made by a candidate for a competitive bidding on the results or violation of the procedures and regulations of the contracting authority.

State-controlled corporation: A method of direct management of a public service by the public authority on which it depends, sometimes with an autonomy that does not, however, go as far as creating a new person governed by public law.

Bid: Written commitment by a bidder to disclose its conditions and undertake to comply with the applicable specifications.

Bidder: The natural or legal person who participates in a call for tenders by submitting a deed of commitment and the constituent elements of its bid.

Monetary Term: Expression of all the criteria of a bid submitted for evaluation and which may be converted as a percentage of its price.

Terms of Reference: A document prepared by the Contracting Authority defining the requirements it requires, including the methods to be used and the means to be employed, as well as the results it expects to achieve.

Article 2: General Objective of the Regulations

The macro objective of these regulations is to provide EBID with an intelligent, dynamic, transparent, structuring and innovative mechanism to enable it to ensure the procurement of high quality supplies, works or services at controlled costs, in order to ensure the optimal functioning of its institutional structures.

Article 3: Specific objectives

The main specific objectives assigned to this reform in order of priority are as follows:

1. Consolidation of transparency :
 - o Universal eligibility ;
 - o Systematic publication on EBID's website of all calls for tenders for which the estimated amount is equal to or greater than USD 20 000;
 - o Free downloading of calls for bids by eligible bidders;
 - o Public opening of bids/proposals in the presence of bidders who so wish;
 - o Establishment of a three-pronged control system (hierarchical control, independent control and audits);
 - o Formulation of a code of ethics and conduct specific to the internal and external actors involved in the procurement process;
 - o Setting up a system for contesting bids;
2. Controlling procurement costs, in particular through:
 - o Implementation of a database of reference prices;
 - o Development of a procedure for analysing the reasonableness of prices;
 - o Pooling of purchases;
 - o Full automation of the milestones of the purchasing cycle (from the expression of needs to the closing of contracts);
3. Standardisation of documents based on the best international labels in the field;
4. Structural transformation of the process through the implementation of a centralised purchasing system supervised by a person responsible for purchasing;
5. Adoption of agile, flexible and performance-based procurement methods and not simply based on the technical and financial capabilities of the candidates;
6. Integration of the risk approach throughout the entire process management chain through the implementation of a purchasing risk universe and an appropriate monitoring system;
7. Formulation of a quality assurance plan based on the satisfaction of internal and external clients;
8. Implementation of a Marshall Plan to boost the access of regional SMEs to public procurement based on the following pillars:
 - (a) Regional margins of preference;
 - (b) Quota practices;
 - (c) Reduction of transaction costs.
9. Inclusion of environmental and social criteria in the tender evaluation and contract award process, in line with the recommendations of UN SDGs 12 and 16.

Article 4: Material scope

These regulations shall apply to all acquisitions of goods, works, current services and intellectual services intended for the regular functioning of the Bank's structures at Headquarters and in the relocated offices, if any.

This includes all purchases for the Bank's institutional needs.

These regulations shall govern all phases of the procurement process, including, but not limited to, the expression of requirements, operational planning, supplier registration, organization of competition, evaluation of tenders, award of contracts, claims management, negotiations, contract administration, filing, archiving and closing.

The scope of the regulation also covers leases, leasing, framework agreements, translators, the Christmas Tree, lawyers and medical consultants, including the purchase of medicines, communication services, staff catering, insurance policies, implants, where applicable, satisfaction surveys, the selection of consultants for staff training, staff relocation, mail transport, freight, fuel for diplomats, the fleet of vehicles and generators as well as solar power plants, procurement for the upkeep and maintenance of the Bank's facilities and buildings and official residences.

Acquisitions to be made in the context of financing from a technical and financial partner are governed by these regulations unless the financing agreement provides for alternative procedures approved by both Parties.

These regulations shall apply to group purchases as well as to central purchasing bodies.

Article 5: Leasing

Leasing is permitted within the framework of these regulations. However, it shall be subject to the following conditions:

Prior written authorisation of the President;

Compulsory enrolment in the PP, initial or amended;

Presentation of the economic and operational advantages for CA (cost reduction, tax benefits, etc.).

Article 6: Personal scope

These rules apply to all purchases made by departments at the Bank's headquarters and at the level of the delocalized offices, if any. It also governs purchases made at the level of the Official Residences, except where there are specific exemption clauses signed by the President.

Article 7: Exceptions

These regulations shall not apply to the following sectors:

1. Employment contracts, governed by specific human resource regulations;
2. Issuing travel documents for staff and partners, in the absence of a Bank-accredited location;
3. Charges related to water and electricity consumption.

The provisions of these regulations are not intended primarily for acquisitions made in the context of financing operations. However, certain fundamental clauses in particular, those relating to transparency, principles and eligibility are common to both purchasing families.

Article 8: Basic principles of institutional procurement

For the purposes of these regulations, EBID's intentional purchases, irrespective of nomenclature, threshold or type, shall be governed by the following basic principles:

1. Maximum transparency;
2. Free access to public procurement;
3. Non-discrimination of candidates on grounds of gender, nationality, religion, etc.;
4. Control of costs thanks to the effectiveness and efficiency of the strategic monitoring system;
5. Zero tolerance for bidders involved in sexism, financing of terrorism, money laundering, trafficking and exploitation of children;
6. Protection of disabled persons and persons with reduced mobility;
7. Compliance with environmental and social clauses, in particular SDGs 12 and 16;
8. Facilitation of the access of regional SMEs to public procurement;
9. Digital and digitized transformation of procurement;
10. Performance approach based on risk and quality approaches.

Article 9: Specific principles

- Regardless of the amount, category or method of procurement used, no contract may be awarded to a contractor without the person responsible for public procurement having first demonstrated to the satisfaction of the authority in charge of controlling the procurement process, the acceptability of the successful bidder's offer.
- For the purposes of these Regulations, the functions of the person responsible for public procurement and that of control are incompatible.
- In accordance with the provisions of these regulations, all purchases of goods, services or works, whatever the method or threshold, are subject to prior written authorisation, on pain of nullity;

- All contracts and purchase orders, regardless of the amount, are also subject to the written authorisation of the contracting authority or its authorised representative within the framework of the delegation of powers;
- Any violation of the principles set out in the framework of these regulations exposes the author to administrative sanctions established by the texts in force.
- Fragmentation is strictly forbidden within the framework of the present regulations.

Article 10: Mitigation of certain fundamental principles

The principle of free access to public procurement may be waived in the following circumstances:

- When an enterprise is sanctioned in accordance with the provisions of Chapter 7 Article 39 of the United Nations Charter;
- When an ECOWAS member state prohibits commercial relations with certain countries of which the tenderers concerned are nationals;
- When a firm is sanctioned for failure to comply with the rules of ethics or transparency in public procurement, either by the Contracting Authority, the MDBs, a member country or a technical and financial partner of the Bank;
- When, between the launch and award phase of the contract, a bidder is guilty of attempting to bribe members of the procurement committee or any other person involved in the procurement process;
- Within the framework of the implementation of these regulations, no contract for works in particular shall be awarded to a contractor without having demonstrated to his satisfaction that he complies with the required environmental and social criteria. To this end, the contracting authority shall set up a scale rating of environmental and social criteria applicable to public contracts;
- The consideration of sustainability in the procurement process must be integrated in all phases of the procurement cycle (from the initial expression of the need, to the execution and completion of the contract).

Article 11: Application

In accordance with its core values of transparency and in order to ensure free access to public procurement for all potential bidders, EBID applies the principle of universal eligibility within the meaning of these rules. To this end, all calls for tender for which the amount is equal to or higher than the reference threshold which is fixed at USD 20 000 are published on the Bank's website and may be downloaded free of charge by interested and legally, technically, financially and ethically qualified economic operators.

No tenderer may be excluded from participating in a call for tenders based on nationality, religion, gender or any other non-legal consideration.

Article 12: Exceptions

Natural or legal persons in the following situations are excluded from participating in the procurement process as defined by these rules:

- In a state of personal bankruptcy, cessation of activities, or who are subject to a collective procedure for the settlement of liabilities such as receivership, liquidation of assets or any other such procedure. The above provisions do not apply to persons who are subject to collective proceedings for the settlement of liabilities, but who are authorised by a court decision to continue their activities;
- who have been found guilty of an infringement of public procurement regulations or who have been excluded from procurement procedures by a court decision which has become final in criminal, fiscal or social matters or by a decision of the Ethics and Sanctions Committee;
- have been declared ineligible, sanctioned in accordance with the directives of the technical and financial partners, in particular the MDBs;
- have been convicted by a final court decision in criminal matters for participation in a criminal organization, terrorism, or an offence related to terrorist activities, money laundering or terrorist financing, or violation of regulations on child labour and other forms of trafficking in human beings;
- which are subject to the penalty of termination for misconduct. As far as legal persons are concerned, the exclusion remains valid for any new applicant legal person, albeit with a different corporate name, but with the same directors or majority shareholders as those of the previously sanctioned legal person;
- who are in conflict of interest. In the case of grouping or subcontracting, all members are subject to the same prohibition, even if it is one or some of them who are concerned;
- Undertakings and public establishments may participate in calls for tender only after having demonstrated to the satisfaction of the contracting authority that they have legal and financial autonomy and are administered in accordance with the rules of commercial law.



Article 13: Conflict of interest with regard to supply, works or service contracts

Any company is deemed to be in a conflict of interest:

- (a) Which delivers supplies, carries out work or provides services other than consultancy services consequent upon or directly related to consultancy services which it has provided for the preparation or execution of a project, or which have been provided by an affiliated enterprise which directly or indirectly controls it, which it controls itself or which is under common control. This provision does not apply to individual undertakings, in particular consultants, contractors or suppliers who collectively discharge obligations to the holder of a turnkey, design-build or design operation and maintenance contract;
- (a) in which the members of the contracting authority, the administrative structure responsible for supervising public contracts, the person responsible for the contract, the procurement unit, the members of the ordinary or special public procurement committee, the delegated contracting authority, the main contractor, or any third party called upon to intervene in the contract award process, have financial or personal interests of such a nature as to compromise the transparency of the public procurement procedures.
- (b) Who has, or whose staff member has, a close professional or family relationship with any member of the Contracting Authority, the procurement unit or the members of the ordinary or special committee;
- (c) or any third party called upon to intervene in the process of awarding the contract, who participates in the preparation of the contract documents or specifications, or in the evaluation process of the contract in question, or participates in the execution or supervision of the said contract.

Article 14: Conflict of Interest in Consultancy Services

Consultants are required to:

- Provide objective and impartial professional advice;
- Prioritize, in all circumstances, the interests of the project owner or the contracting authority, without taking into account the possibility of a subsequent assignment;
- Avoid any possibility of conflict with other assignments and the interests of their own company, in the advice they give. Consultants may not be engaged for assignments which would be incompatible with their present or past obligations to other clients or which might make it impossible for them to fulfil their mandate in the best interests of the Project Owner or the Contracting Authority. Without prejudice to the generality of these provisions, consultants may not be engaged in the circumstances set out below:
 - (a) No firm engaged by the Contracting Authority to deliver supplies, carry out works, or provide services other than consultancy services for a project, nor any affiliated firm directly or indirectly controlled by it or under common control, shall be permitted to provide consultancy services consequential or directly related to such supplies, works or services other than consultancy services. This provision does not apply to individual undertakings, including consultants, contractors or suppliers who collectively discharge obligations to the holder of a turnkey contract, etc...
 - (b) No firm engaged by the Contracting Authority to provide consultancy services for the preparation or execution of a project, nor any affiliated firm which directly or indirectly controls it, which it controls itself or which is under common control, shall subsequently be permitted to deliver supplies, carry out works or provide services other than consultancy services

consequential or directly related to such consultancy services. This provision shall not apply to individual enterprises, in particular consultants, contractors or suppliers who collectively discharge the obligations of the holder of a turnkey contract, a design-build contract or a design-build/operate/maintenance contract;

- (c) no consultant, including staff and sub-consultants in his service, nor any affiliated contractor who directly or indirectly controls him, whether he controls himself or is under common control, may be engaged for an assignment which by its nature creates a conflict of interest with any of his other assignments;
- (d) consultants, including experts, staff and sub-consultants in their service, who have a close professional or family relationship with any official of the Contracting Authority, of the procurement unit or of the members of the bid opening and tender evaluation committee, of the delegated contracting authority, the main contractor, or any third party called upon to intervene in the contract award process, who participates directly or indirectly in any segment of the preparation of the terms of reference of the assignment, the selection process, or the supervision of services, may not be awarded the public contract.

Article 15: Integrity, fraud, corruption, collusive or coercive practices

EBID's pillar par excellence concerning integrity, fraud and corruption is zero tolerance not only towards staff members, but also towards its bidders, contractors including sub-contractors and third party observers.

EBID staff members involved in the procurement chain are required to strictly observe the rules of ethics and professional conduct. In particular, they are not allowed to receive any gifts or invitations. In addition, they shall not attend private lunches outside the institutional lunches that may be organised during scoping meetings, launching meetings or during the execution of the contract but on EBID premises, except with the express prior authorisation of the President.

They shall also be governed by the conflict of interest rules. To this effect, they shall avoid communicating confidential information, particularly on the progress of the evaluation process, the amounts of competitive

bids, as well as the secrets of the deliberations of the technical committees or sub-committees.

Any violation of these restrictions exposes the perpetrator to disciplinary sanctions, in accordance with the texts in force.

However, corporate gifts in the form of gifts of modest value granted through official channels are authorised insofar as they do not contribute to influencing the free play of competition.

In any case, all corporate gifts must be submitted for prior approval by the President of EBID.

All bidders shall be required to sign a declaration of honour in which they undertake to comply with EBID's policy on integrity, fraud and corruption.

Any allegation that a supplier, tenderer, contractor or sub-contractor has engaged in acts of corruption, fraudulent, collusive and coercive practices or acts of obstruction in its relations with the Bank shall immediately be submitted to the Ethics and Sanctions Committee for investigation.

The Bank will reject a bid if it is established that the Bidder or any of its personnel or agents or its sub-consultants, subcontractors, service providers, have engaged, directly or indirectly, in corrupt, fraudulent, collusive and coercive activities or acts of obstruction with a view to obtaining this contract. The Bank will sanction, at any time, any supplier, tenderer or contractor, through the Bank's Sanctions Committee, including by publicly declaring that the entity concerned is excluded from any procurement process, either indefinitely or for a specified period of time.

Tenderers, service providers and contractors who offer a gift of any value to members of staff will be deemed to influence the procurement process, and the Bank has the discretion to impose sanctions on them by declaring them excluded from any future process to obtain Bank contracts, either indefinitely or for a fixed term.

The Bank will include in invitations to tender and contracts a provision that bidders, contractors and service providers shall allow the Bank to examine their records and the documents relating to the submission of bids and the performance of the contract and to have them audited by auditors appointed by the Bank.

Staff members, bidders, contractors and their subcontractors have the obligation to report any attempt at corruption or violation of ethical procurement rules to the Bank's Ethics and Sanctions Committee.

However, slanderous denunciations, blackmail and sexual harassment are prohibited.

1 DYNAMIC APPROACH TO PUBLIC PROCUREMENT

Article 16: Electronic procurement

As part of the digital transformation of the procurement process, the contracting authority will take the appropriate measures to equip itself in the short term with an ultra-modern application for dematerialised management of the entire purchasing cycle.

This platform will take into account the four (4) dematerialisation techniques below:

- Online registration of bidders following the example of the United Nations Global Marketplace database;
- Online tendering (e-tendering following the Korean KONEPS model);
- Online shop;
- Electronic contract management.

The application will support the three main stages of the procurement process, namely;

- Extra-procedural phase;
- Competitive phase (online bidding, electronic safe, online results, etc);
- Contractual phase and contractual item.

Article 17: Categorised database of suppliers

In order to further boost competition and stimulate SMEs' access to public procurement, the contracting authority is setting up a database of non-approved suppliers at headquarters and its remote sites, where appropriate, according to the segments of economic activity and the size of economic operators.

Registration in the database of non-approved suppliers does not confer an approval or monopoly on their beneficiaries. It is done in strict compliance with the principles of transparency and healthy competition.

Registration in the supplier database may be carried out in accordance with the following procedures:

- Unsolicited application to the contracting authority;

- Following an expression of interest organised for this purpose by the contracting authority;
- On the initiative of the contracting authority when, at the end of the evaluation process, bids have been found to be compliant;
- On the initiative of the contracting authority following a satisfactory evaluation of the contractor's performance.

Registration in the database is subject to the following criteria:

- Be a natural or legal person duly constituted under the law of the country where the tenderer carries out its activities;
- Have the appropriate legal, technical, financial and ethical capacities to execute the contracts to the satisfaction of the Contracting Authority;
- Have the necessary approvals in the given segments of activity if required.

Requests for approval are addressed to the Director of Administration and General Services who examines them in the light of the above-mentioned criteria and gives a favourable or unfavourable response.

In case the Director of Administration and General Services refuses to authorise the registration of an applicant bidder in the database, this Decision may be appealed against before the President of EBID.

This appeal must be lodged no later than five (5) working days from the date of notification of the refusal.

Any tenderer registered in the suppliers' database may be withdrawn in case the following situations arise:

- Violation of the rules relating to integrity and transparency in public procurement;
- Unsatisfactory performance following the annual performance evaluation by the Contracting Authority;
- Bankruptcy or compulsory liquidation;
- Non-compliance with environmental and social standards.

Article 18: Grouping

Tenderers are allowed to form groups in order to pool their experience and skills. However, under penalty of inadmissibility, the grouping may not consist of more than three members. It must also draw up a constitutive act of grouping signed by all the members and designating a lead partner to represent it. The constitutive instrument of the grouping may be drawn up by private agreement or by notarial deed at the discretion of the CA, which may be embodied in the competition regulations.

Furthermore, only joint ventures are accepted by EBID.

With regard to the selection process for intellectual services, individual consultants may form a consortium. On the other hand, grouping between individual consultants and firms within the framework of the same selection process is prohibited, except in the case of a sole proprietorship.

It is prohibited for candidates and tenderers to submit several bids for the same contract or the same lot by acting both as individual candidates or as members of one or more groupings.

Double tendering is prohibited under these regulations.

Article 19: Sub-contracting

Within the framework of these rules, subcontracting in a proportion of thirty percent is permitted. However, it shall be subject to the prior written consent of EBID. During the bid evaluation process, sub-contractors shall be subject to the same obligations as main bidders, particularly with regard to technical and financial capacities and the principles of transparency and integrity.

Article 20: Allotment

As part of the promotion of access to public procurement for regional SMEs, allotment is the rule par excellence in all calls for tenders where the amount is equal to or greater than USD 20,000. However, allotment is only required if the nature and scope of the acquisitions allow it.

Article 21: Cost reduction policy

Reducing costs is the ultimate output of the regulation chairperson. It is supported by the following strategies:

- Analysis of the acceptability of the prices of potential contractors;
- Setting up a database of reference prices;
- Outsourcing the operation of reprographic and printing equipment;
- Revision of all multi-year service contracts, in particular maintenance and servicing;
- Optimisation of the energy mix;
- End-to-end automation of the purchasing process.

Article 22: Access to public procurement for regional SMEs

For the purposes of these regulations, EBID's strategy to boost SMEs in the ECOWAS region is as follows:

- Mandatory quotas of 30% on the procurement plan (PP) value of each financial year for the benefit of regional SMEs;
- Margins of preference:
 - o 15% for supplies manufactured in the ECOWAS zone;
 - o 15% to international tenderers who agree to subcontract at least 30% of the contract in question;
 - o 10% of regional staff in the key personnel proposed by international firms in competitive bidding for international services;
 - o 75% to regional companies as part of works contracts;
 - o 5 % for regional craftsmen.
- Systematization of allotment, unless it can be demonstrated to the satisfaction of the Contracting Authority that it is impossible to allot the tender dossier;
- Reduction of transaction costs (reducing the load or elimination of administrative documents during the selection phase)
- Relaxation of advertising rules.

Article 23: Administrative documents

During the selection phase, the absence of administrative documents is not systematically eliminatory except in the case of sectors of activity protected by specific approvals. However, these documents must be required before contracts, framework agreements or purchase orders are signed.

As regards contracts or purchase orders, they must contain at least the following documents, otherwise they will be invalid:

- Copy of the trade and personal property credit register or its equivalent according to the legislation of the tenderer's country;

- Copy of the certificate of non-bankruptcy or its equivalent;
- Copy of the insurance certificate if required in the tender dossier;
- Copies of the various guarantees if required in the tender dossier;
- Copies of the manufacturer's approvals if the equipment or solutions are not designed by the manufacturer's dealers.

Article 24: Bid bond

As part of its strategy to promote access of SMEs to public procurement, EBID has chosen not to require bid bonds.

The calls for tender can be downloaded free of charge from the Bank's website by any eligible bidder.

Articles 25: Advertising Rules

The acquisition of goods, works, current services or intellectual services for an amount less than or equal to US\$10,000 is not subject to any special advertising rules. However, it should be specified that requests for quotations must be sent to the official PRPP e-mails. No quotations should be received outside these channels.

For purchases exceeding the above-mentioned threshold, requests for quotations must be published on EBID's website in French and English languages.

In addition, depending on the nature and complexity of the purchases, these requests may be disseminated through other mass media channels such as UNDB ONLINE, DGMARKET, as well as in specialised journals or any other media of the Contracting Authority's choice.

Article 26: Standard procurement dossiers

EBID is progressively developing standard procurement documents:

- Standard requests for quotations (supplies, works, physical services);
- Standard bidding documents (supplies, works, routine services);
- Standard Form of Notice of Expression of Interest;
- Standard Request for Proposal Documents (SFQTC, SMC, SFQT, SBBB, SCI, SFQ);
- Standard pre-qualification file, etc.

The following documents are included in the standard implementation dossiers:

- Framework agreements;
- Client contracts;
- Unit price contracts;
- Fixed-price contracts;
- Time-spent contracts;
- Contracts with provisions;
- Percentage contracts;
- Work Control Contracts;
- Contract with conditional instalments;
- Performance contracts;
- GENIS contract;
- Project management contract;
- Project management contract;
- Technical inspection contract;
- Technical design office contract.

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CHAPTER VIII :

PRICES IN THE PUBLISHED MARKETS

Article 27: Composition of prices

Public procurement prices include all costs, fees, taxes and profit margin. They must be sufficiently detailed and take into account all market variables (acquisition, operation, routing, container stripping, loading, unloading, approaches, delivery, etc.). Prices should also specify the types and version of INCOTERMS used.

Since EBID is exempt from the payment of all duties and taxes, each invitation to tender and contract must introduce a specific clause to this effect.

Article 28: Lump sum contract

A contract is a flat-rate contract when the quantities can be determined in advance. In this case, price units are applied to the quantities in order to have an overall price.

Article 29: Market at unit prices

In a unit price market, quantities cannot be determined in advance. These are either acquisitions or services whose pace and frequency cannot be unequivocally assessed in advance. In this case, the contract is concluded on the basis of the unit prices agreed between the Parties.

Article 30: Firm prices and adjustable prices

Prices are firm when they cannot be changed by either Party regardless of changes in economic or legal conditions. They are subject to revision when, upon the occurrence of factors determined in advance, changes may be made to them. Prices are generally revised for contracts with a term of more than 18 months. It may be carried out by means of a price revision formula incorporated in the contract or by means of supporting estimates.

Whatever the reason, the price revision must not exceed 30% upwards or downwards, unless the Contracting Authority gives its express prior opinion.

No price revision may take place beyond the delivery or performance period of the contract.

Article 31: Price updating

Price discounting is a revaluation of the market price when a period of three (3) months has elapsed between the date of signing of the contract and its effective commencement. Discounting can be done both upwards and downwards.



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PART II: INSTITUTIONAL FRAMEWORK FOR INTERNAL PURCHASES



2 CHAPTER ONE : PROCUREMENT BODIES

SECTION 1: PERSON RESPONSIBLE FOR PUBLIC PROCUREMENT

Article 32: Mandate of the Person responsible for Public Procurement

The contracting authority mandates a Person Responsible for Public Procurement to implement the procedures for the award and execution of public contracts.

PRPP is the person authorised to sign the contract on behalf of the contracting authority. He/she is responsible for conducting the procurement procedure until the appointment of the successful tenderer and the approval of the final contract.

The person responsible for public procurement may be represented in the performance of his duties, except for the selection of the successful tenderer and the signing of the contract.

Contracts concluded by a person not empowered to do so shall be null and void.

Article 33: Functions of the PRPP

For the purposes of these regulations, the functions of the person responsible for public procurement are performed by the Director of the Department of Administration and General Services or any other Director appointed by the President. In this capacity, he is responsible for the following tasks:

- organising calls for tenders, according to the nature of the purchases, their amounts and the thresholds set;
 - circulating invitations to tender as well as tender documents on EBID's website and other appropriate channels;
 - responding to bidders' requests for further information;
 - receiving bids and ensuring the logistical organisation of the work of the Contracts Committees;
 - chairing the work of the ordinary committee and supervising the opening and analysis of bids;
 - transmitting the evaluation reports of the committees to the Vice-President or the President for approval according to the corresponding thresholds;
 - publishing the provisional and final results of the work of the calls for tenders;
 - receiving and following up on any appeals and complaints from tenderers;
 - negotiating and drawing up contracts and framework contracts in accordance with the regulations in force;
 - notifying contracts and signing contracts and purchase orders in accordance with the authorised thresholds;
 - providing the Secretariat of the Dispute Resolution Committee;
 - periodically publishing the list of awarded contracts;
 - administering the online bid submission platform;
 - managing contracts and approving contractors' invoices; *
 - liquidating all contracts;
 - supervising the filing and archiving of procurement files.
- coordinating all purchases of supplies and works, whatever the type, amount and method used;
 - receiving, centralising, investigating and following up on suppliers' requests for approval;
 - developing and periodically updating the supplier database;
 - assisting the requesting Departments in expressing their needs;
 - receiving and examining procurement requests from the requesting and/or beneficiary departments, from the Bank's senior management, including those of the official residences;

SECTION 2: PROCUREMENT UNIT

Article 34: Mandate and Functions

As per the definition of these regulations, the missions devolved on the Procurement Unit are carried out by the General Services and Assets Division under the supervision of its Head. It is the technical and operational body for the award of contracts.

In this capacity, it assists the Person responsible for Public Procurement in the performance of the functions referred to in the preceding Article.

It is responsible for the preparation and implementation of the Bank's procurement plan.

He/she provides the Secretariat for all ordinary or special procurement committees and ensures the continuous improvement of the procurement process through the implementation of innovative and structuring tools.

The Head of the Procurement Unit is assisted in his functions by one or more Procurement Specialists.

SECTION 3: STANDING PROCUREMENT COMMITTEES

Article 35: Ordinary Contracts Committee

Chaired by the PRPP, the purpose of this committee is to open, initial and evaluate tenders/proposals and draw up the evaluation reports to be submitted for approval to the Authority responsible for Contract Control. It is a standing committee to be set up by Decision of the President. It is competent to rule in matters concerning all calls for tender relating to all acquisitions of goods, current services, works or intellectual services whose amount is higher than US\$ 20,000 and less than or equal to US\$ 100,000. It is also empowered to sit in the event of a direct agreement. In addition to its Chairman, it is made up of the following members:

- Director of Risk Management;
- Director of Legal Affairs;
- Director of Internal Audit and Operations Evaluation;
- Director of Finance and Accounting;
- Director of the beneficiary and/or user of the acquisition concerned;
- Head of the General Services and Assets Division, Rapporteur.

Any other authority or structure whose presence is necessary for an optimal analysis of the files. The Chairman of the Committee may also call upon third party observers but without voting rights.

Article 36: Special Contracts Committee

The Special Committee on Contracts is competent to rule on the procurement of goods, works, current services or intellectual services for which the estimated amount exceeds US\$100,000. It shall be chaired by the President of EBID or his duly authorised representative. It shall then be composed of the other members listed below:

- Director of Administration and General Services, Member;
- Director of Legal Affairs;
- Director of Risk Management;
- Director of Internal Audit and Operations Evaluation;
- Director of Finance and Accounting;
- Director of the beneficiary and/or user of the acquisition concerned;
- Head of the General Services and Assets Division, Rapporteur.

Any other authority or structure whose presence is necessary for an optimal analysis of the files. The Chairman of the Special Committee may also call upon third party observers but without voting rights.

Article 37: Technical Sub-Committee

The setting up of a Technical Sub-Committee for each dossier is at the discretion of the Chairman of the Ordinary or Special Committee who analyses its relevance.

Its mission is to carry out an in-depth analysis of the bids and proposals received and make recommendations to the Ordinary or Special Contracts Committee with a view to either awarding the contract or not. It is chaired by the representative of the requesting and/or beneficiary department. Its secretariat is provided by the Head of the Procurement Unit. The other members of the Technical Sub-Committee (TSC) are chosen intuitu personae based on their skills and ability to evaluate the bids satisfactorily manner.

Article 38: Operating rules of the Procurement Committees

The Chairman of the Ordinary or Special Contracts Committee is responsible for convening the members of the Committee within a period of at least 48 hours before the date set. A copy of the tender dossier shall be attached to the notice of meeting. At the bid opening stage, the committee shall meet when at least two of its members are present.

If the Chairman is absent at the date and time of the bid opening session, a member of the committee shall conduct the proceedings. On his arrival, the Chairman shall recover his prerogatives.

The representative of the project manager, if there is one, participates in the work of the committee in an advisory capacity.

At the request of the members of the committee, any person, designated by the Chairman because of his technical, legal, financial or deontological skills, may participate in the work of the committee in an advisory capacity.

With the exception of procedures requiring the setting up of a panel, a technical sub-committee composed of a maximum of 7 members is set up by the ordinary or special contracts committee.

The members of the contracts committees carry out their mission with professionalism, probity and in complete independence, in the general interest. Any member having an interest in a candidate or tenderer company or having knowledge of facts likely to compromise his independence is required to inform the chairman and the other members of the committee. The member of the committee referred to in the preceding paragraph must refrain from participating in the work of the committee, on pain of the sanctions set forth in accordance with these rules. The other members of the committee who are aware of this fact must take the necessary measures to disqualify the said member. In any case, where the member has sat in violation of the prohibition, the procedure shall be null and void. The members of the committees must be duly and by name appointed, failing which they shall be refused any participation in the work of the committee, except for members sitting in their own capacity. The minutes of the opening of bids shall be signed by all members present.

At the analysis stage of the bids, the committees can only validly sit if all the members are present. If this quorum is not attained, the meeting is postponed to a date determined by mutual agreement. This meeting must be held within four days of the date of postponement. The committee shall be validly convened at this second meeting with the presence of at least two of its members, including necessarily the representative of the beneficiary department.

The members of the committee, with the exception of the project manager if there is one, participate in the meetings of the committee with voting rights. The members of the committee receive a notice from the chairman at least three days before the bid evaluation meeting. At the opening of the bids, or immediately afterwards, the members of the committee shall receive a copy of the bids.

If a body provides financial assistance to the operation which is the subject of the invitation to tender, its representative may attend the committee meetings as an observer.

The proceedings of the committee are secret. The members of the committee and the persons attending in an advisory capacity are bound by professional secrecy. Documents and writings of any kind in connection with an invitation to tender may not be used for any purpose other than their purpose, and persons who, by virtue of their duties, may come to know or keep them, are also bound by professional secrecy. No member of the committee may be prosecuted in disciplinary proceedings for opinions expressed or remarks made during the meetings.

The decisions of the committee are taken in accordance with the provisions of the call for tenders and the regulations in force.

The decision of the special or ordinary committee may not have the effect of derogating from one of the fundamental principles of public procurement.

The decisions of the committee are not divisible and are deemed to have been taken by the committee as a whole. However, any member of the committee who has actually participated in the meetings may express reservations in the minutes of the bid judgements. Any member of the committee may report any irregularities observed to the Ethics Committee of EBID. The minutes of the evaluation of the bids shall be signed by the members present and having the right to vote.

No member of the technical committees or sub-committees may be prosecuted for opinions, comments or ratings issued in a professional manner.

The Technical Sub-Committees shall function according to the same rules as the Contracts Committees.

Irrespective of the complexity of the case, the members of the committees have a period of 45 days to send their report to the supervisory authority for approval.

Article 39: Delegated Contracting Authority

Within the framework of the management of a complex contract, generally, the contracting authority may delegate all or part of its powers relating to the award and execution of works contracts to a third party and they include, among others:

- works, buildings or infrastructure, including the supply of materials and equipment necessary for their operation;
- programmes of public interest or projects included in such programmes, comprising a series of works, supplies and services;
- the project owner may entrust to the delegated project owner, under the conditions defined by the agreement, the exercise in his name and on his behalf, of all or part of the following responsibilities:
- the definition of the administrative and technical conditions according to which the work or project concerned will be carried out;

- the organisation and conduct of the procedure for the award of contracts necessary for the execution of the work or project until the award is made;
- the management of contracts awarded in the name and on behalf of the contracting authority;
- authorising payments to the contract holders;
- acceptance of the work or project;
- the performance of all acts relating to the above-mentioned responsibilities.

The delegated project owner is only liable to the project owner for the proper performance of the responsibilities for which he has been personally entrusted by the latter. The delegated project owner represents the project owner vis-à-vis third parties in the exercise of the responsibilities entrusted to him under the conditions defined by the project ownership agreement. In this capacity, he may take legal action.

The relationship between the project owner and the delegated project owner is defined by an agreement concluded in accordance with the procedure applicable to contracts for intellectual services, which provides, among others, that:

- the responsibilities entrusted to the delegated project owner;
- the technical, financial and accounting control procedures exercised by the project owner at the various stages of the operation, including the contract implementation phases, which are subject to the latter's prior approval.

Article 40 - Project management

The project supervisor is the legal person governed by public or private law charged by the project owner or the contracting authority with providing solutions, particularly architectural, technical and economic solutions to the realisation of a project or the supply of complex equipment or services. The project supervisor assists the contracting authority in the award of contracts, and manages, monitors and controls works execution or the supply of complex equipment or services. The project manager and the project owner are bound by a project management contract. The project manager must always be chosen outside the services of the project owner. However, in certain cases, the project manager may be chosen from within the services of the project owner or the contracting authority. In such cases, the opinion of the President of EBID is required.

The relations between the contracting authority and the project manager are governed by a project management contract. Through this contract, the project owner or contracting authority entrusts to the project manager, based on the latter's competence, a mission of design and assistance for the execution

of the building or infrastructure works, equipment, or the delivery of complex supplies or services. The project management contract, which is a contract for intellectual services, covers all or part of the following elements:

- sketch studies;
- project studies;
- assistance to the project owner for the award of the works contract or the supply of complex equipment or services;
- management, monitoring and control of the works execution or the supply of complex equipment or services;
- scheduling, steering and coordination of worksites;
- assisting the project owner or the administrative management unit during acceptance operations and during the period of guarantee of perfect completion of the works. The project management mission gives rise to contractually fixed remuneration. The amount of this remuneration takes into account the scope of the assignment, the level of complexity and the estimated cost of the work. The project management contract is awarded in accordance with the procedure applicable to contracts for intellectual services.

2

CHAPTER II : BODIES RESPONSIBLE FOR OVERSEEING THE AWARD OF CONTRACTS

Article 41: Principle of triangular control

A priori and a posteriori control is one of the strategic pillars of the governance of EBID's public procurement system. On this basis, three levels of control are instituted. They include:

- Hierarchical controls;
- Independent controls;
- Audits

Article 42: Hierarchical Controls

For the purpose of these regulations, three hierarchical control bodies are established, namely:

- **A priori control by the Vice-President, Finance and Institutional Services.**

It is based on the control matrix below:

- o Prior review of all call for tenders for amounts equal to or greater than US\$20,000;
- o Approval of all bid/proposal analysis reports for competitive bidding for amounts greater than USD 20,000;
- o Approval of all draft contracts or purchase orders valued at US\$ 20,000 or more;
- o Validation of all payments regardless of the amount or nature of the procurement.

- **Presidential control (A priori and a posteriori)**

The President of EBID is the guarantor of the control system of the acquisition chain. In this capacity, he shall exercise the following powers:

- o Control at all levels of the procedure including after the award and execution of the contract;
- o Whatever the amount, method or type of procurement, the President is free at any time to order unannounced controls on the entire process in order

to ensure that it complies with these regulations;

- o He approves beforehand, ahead of the launch, all tender documents whose amount is greater than 100,000 and less than or equal to 1,000,000 US dollars;
- o He approves a priori all acquisitions by direct agreement, including in residences.

- **Control by the Board of Directors**

All procurements of supplies, works or services in excess of US\$1,000,000 are subject to the prior approval of the Board of Directors.

Article 43. Independent controls

In order to further promote transparency and integrity in the procurement process, independent audits are periodically carried out on the initiative of the President. These controls may be carried out by independent guarantors, natural or legal persons.

Independent integrity guarantors are involved in all stages of the procedure, during the evaluation of tenders/proposals or during the contract execution phase.

Article 44- Audits

For the purposes of these regulations, the Audit Directorate is the body responsible for monitoring the fairness of the procurement process in relation to the provisions of these regulations. To this end, it must carry out at least once every two years an audit of the procurement system in all its segments, procurement methods, conduct and administration of the process, including its contract management.

2 CHAPTER III : PROCUREMENT REGULATORY AUTHORITIES

Article 46 – The President of EBID

The President of EBID is the responsible for regulating the procurement and contract execution process. As such, he examines, at the second instance, the grievances raised by the bidders in connection with the award of contracts. Accordingly, he has the power to impose appropriate sanctions against non-compliant bidders or those guilty of fraudulent manoeuvres, corruption or collusive or coercive practices. He also has the power to impose sanctions on staff members who violate the provisions of EBID's Code of Ethics and Professional Conduct.

Article 47- Ethics and Sanctions Committee of EBID

In implementing its code of ethics, EBID has an Ethics Committee with powers to impose sanctions on staff members and/or tenderers involved in acts that violate the rules of ethics, particularly fraud, conflict of interest, corruption, insider trading, misappropriation, collusive and coercive practices, sexism, etc.

Sanctions against contractors may consist of temporary or permanent exclusion from participation in competitive bidding processes.

Article 48- Delegation of powers

For the purposes of these regulations, only the President may order the execution of any expenditure in excess of US\$200,000 and not exceeding US\$1,000,000. Procurement exceeding US\$1,000,000 are subject to prior review by the Board of Directors.

However, in order to minimise prejudicial delays in the institutional functioning of the Bank, the President of EBID may delegate some of his prerogatives to the following authorities:

Approval of tender documents as well as dedicated reports:

Vice-President, Finance and Institutional Services

- Pre- and post-acquisition review of the procurement of supplies, works or services in excess of US\$ 20,000 and equal to US\$ 200,000;
- Ex post facto review of the procurement of supplies, works or services below US\$ 20,000.

Director of Administration and General Services

- A priori review of procurement of supplies, works or services below US\$ 20,000

Signing of contracts and purchase orders

Vice President, Finance and Institutional Services

Approval and signing of contracts and purchase orders up to US\$100,000.

For acquisitions exceeding US\$1,000,000, no delegation is possible with regard to the pre- and post-process review.

Acquisitions of US\$20,000,000 or less may be the subject of purchase orders unless the nature or complexity requires the preparation of a contract.

Acquisitions over \$20,000,000 are necessarily subject to a contract unless the Contracting Authority expressly agrees otherwise.



3

PART III: CONDUCTING AND ADMINISTERING THE PROCUREMENT PROCESS



3

CHAPTER ONE :

EXPRESSION OF NEEDS

Article 49: Types of Contracts

For the purposes of these regulations, EBID's acquisitions are classified into four main categories as follows:

Purchases of supplies: tangible goods, liquid and gaseous objects, leases, leasing, commercial paper, software, etc;

Works contracts: construction of works, civil engineering works, fitting-out, demolition, certain designs (BOT).

Non-consultant service contracts: maintenance, cleaning, security, routine services, etc;

Intellectual services contracts: eminently intellectual studies and services.

Article 50: Purpose of the expression of needs

It consists of determining as unambiguously as possible the needs of the contracting authority in terms of supplies, non-consultant services, works or services to be acquired during a budgetary year.

The expression of needs must specify the technical characteristics, terms of reference, description, quantities, place of use, traffic, storage conditions, lifespan, etc.

Article 51: Persons responsible for the expression of needs

The beneficiary Departments are responsible for expressing their needs.

However, the Department of Administration and General Services provides technical assistance by supplying them with prototype documents for expressing needs by nature of acquisition, namely

- Terms of reference for intellectual services;
- Standard specifications or economic management programme for the acquisition of supplies and current services;
- Technical specifications for works contracts.

Article 52: Stages in the expression of needs

The main steps in the expression of needs are as follows:

Project maturity study: Before any acquisition is entered in the budget, each requesting Department must demonstrate to the satisfaction of the Administration and General Services Department through a technical-commercial study that the need is mature and can be included in the budget for the year in question.

Entry in the budget: Whatever the nature, amount or method, no acquisition can be made without first being entered in the budget. Consequently, the expression of need is based on a viable acquisition.

Definition of the need: This step consists of identifying the need through a comprehensive and transparent description. The definition of the need must take into account legal and environmental requirements. It must avoid over-quality and under-quality and be based on fair quality.

Evaluation of the need: The expression of needs must be based on an analysis of the critical factors of the purchase, namely:

- Profitability;
- Total cost of ownership (acquisition, operation, lifespan, depreciation, dismantling, energy consumption, etc).

Economic analysis of the need: This consists of analysing the opportunity cost of the purchase based on the following determinants:

- Competitive environment of the purchase (megalopoly, monopoly, exclusivity, open competition, stock exchange listing, foodstuffs, finished products, etc);
- Decision to rent or buy.

Allotment, subcontracting, grouping, margins of preference, variants, unit prices, fixed prices, discounting and price review, framework agreements, performance contracts or GENIS.

Article 53: Methods of expressing needs

The expression of needs is realised by the drawing up of initial specifications or terms of reference by the requesting Department and transmitted to the Administration Department by means of a purchase request.

The Department of Administration and General Services may not initiate any procurement action without first having received a procurement request duly signed by the competent authority and accompanied by the corresponding description.

The Department of Administration examines the request in accordance with the requirements defined in the present regulations. This request may be returned to the applicant either provisionally or finally depending on the level of seriousness of the reasons considered.

At the beginning of each financial year, immediately after the validation of the procurement plan, the Department of Administration and General Services sends a note to all requesting structures and notifies them of the deadline set at 31 March of the current financial year to transmit their procurement requests accompanied by the appropriate justifications. After this deadline, no procurement request can be accepted unless specifically authorised by the Contracting Authority or its representative.

The technical specifications, requirements or terms of reference must comply with the highest standards of performance and the requirements of sound competence so as to ensure the optimum conditions of fairness and transparency for all potential candidates.

Technical specifications should avoid as far as possible the use of brand names and serial numbers. Where it is impossible not to use trademarks, the Contracting Authority must add the expression "or equivalent" to the equipment trademark cited.

Article 54: Sourcing

The Department of Administration and General Services shortly before the launch of a call for tender, organises a responsible dialogue with potential bidders before gathering important information useful for the organisation of a healthy tendering devoid of any favouritism.

The technical dialogue must be conducted in strict compliance with the fundamental principles of transparency and fair treatment of candidates. It may take the form of a bidders' conference.

At the beginning of each financial year, the PRPP organises a conference with the requesting and/or beneficiary structures to take stock of the previous financial year and discuss the best possible conditions to improve the process and optimise the performance of the procurement chain.

The PRPP can also organise a similar conference with potential bidders at the beginning of the budget year after the publication of the general procurement notice. In this way, an expression of interest can be organised in order to register intentions to participate.

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CHAPTER II : OPERATIONAL PLANNING OF PROCUREMENT

Article 55: Procurement Plan

At the beginning of each financial year, after the notification of the budget, the Department of Administration and General Services submits to the President of EBID for approval, a consolidated annual procurement plan for the financial year in question. This plan shall take into account the requirements in terms of acquisition of goods, works, services or intellectual services of all EBID structures including the Official Residences.

No acquisition may be undertaken by the Department of Administration and General Services without first having been included in the initial or amended procurement plan, except with the prior agreement of the President.

The plan shall be drawn up on the basis of EBID's standard models and shall include at least the following information:

- Number of the procurement;
- Identifier;
- Exact designation;
- Type of acquisition;
- Amount, specifying the currency;
- Method of acquisition;
- Use or not of a pre-selection (Notice of expression of interest or pre-qualification);
- Type of contract subject to (lump sum, unit price, framework agreement, GENIS, etc);
- Forecast dates, for receipt of the specifications or TOR, the launch of the call for tender, and the signing of the contract or purchase order.

Procurement plan and the reference tool of EBID's procurement system. It covers the corresponding budget year and may be amended before the end of the year to take into account foreign-related factors (variation in the amount, change of methods or introduction of initially unforeseen purchases, etc).

Article 56: General Procurement Notice

The General Procurement Notice is a supporting document for the procurement plan. It is an announcement which summarises all the procurement of goods, works or services included in the validated procurement plan for the year under consideration and is disseminated on EBID's website and, where appropriate, in specialised international websites such as UNDB ONLINE, MARKET, portals dedicated to markets in all ECOWAS countries as well as in the media of large regional and international audiences.

The preparation and dissemination of the General Procurement Notice is mandatory after the approval of the initial or amended PP.

Article 57: Timetable for the implementation of the procurement process

The timetable for the implementation of the procurement process is drawn up by the Department of Administration and General Services after approval of the procurement plan.

It is a schedule that projects in great detail, for each procurement included in the validated PP, the expected and actual deadlines and the differences in the implementation of all the approved procurement lines.

It is a technical and operational document that is updated periodically by the DAGS, based on the reference deadlines for each type of procurement and each procurement method.

Article 58: Specific procurement notices

These are single reach announcements for individual and personalised invitations to tender. They are broadcast in the same channels as the calls for bids to which they relate. Since EBID has opted not to sell the tender documents, the specific procurement notices are directly incorporated in the related tender documents. Specific Procurement Notices shall contain at least the following information:

- Designation of the Contracting Authority;
- Purpose of the procurement;

- Source of funding;
- Launch date;
- Deadline, place and procedures for the submission of tenders;
- Date and place of the opening of bids;
- Procurement method used;
- Rules for evaluating and awarding the contract;
- Type of contract as well as the publication of results, etc.;

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CHAPTER III : THRESHOLDS AND METHODS OF AWARDING CONTRACTS

Article 59: Classification of Purchases

For the purposes of these regulations, acquisitions are classified into four families as follows:

- Supply and equipment contracts;
- Works contracts;
- Current service contracts or non-consultant services;
- Intellectual Services Contracts.

Article 60: Hybrid contracts

A hybrid contract is a purchase in which two or more types of acquisitions co-exist. In determining the appropriate method, the nature of the predominant acquisition in terms of volume and cost is taken into account.

Article 61: Procurement thresholds for the acquisition of supplies, works and non-consultant services

- 0 and 50 US dollars included	:	Imprest account (petty expenses);
- 51 and 1000 US dollars included	:	Direct contracting;
- US\$ 1001 and US\$ 10,000 included	:	Shopping class A/Publication optional;
- US\$10,001 and US\$20,000 included	:	Shopping class B/Mandatory advertising;
- US\$ 20,001 to US\$ 200,000 inclusive	:	Tendering Class A (Ordinary Committee);
- 200,001 and more	:	Class B Tender (Special Committee).

Article 62: Thresholds for awarding intellectual service contracts

- 0 and 50 US dollars included	:	Imprest account (petty expenses);
- 51 and 1000 US dollars included	:	Direct contracting;
- US\$ 1001 and US\$ 10,000 included	:	(Individual consultants Class A/Notice of Expression of Interest, optional);
- US\$ 10,001 and US\$ 20,000 included	:	Individual consultants class B/ (Notice of Expression, Compulsory);
- US\$ 20,001 to US\$ 200,000 inclusive	:	Selection of firms, Class A/Ordinary Committee/Notice of Expression of Interest/Optional);
- 200,001 and above	:	(Selection of firms, Class B/Special Committee/Notice of Expression of Interest, Mandatory).

SECTION 2: LAUNCH OF THE PROCUREMENT PROCESS BY PROCUREMENT METHOD

Article 63: Advance payment system

These are out-of-pocket expenses relating to the acquisition of supplies, works, services or intellectual services of low value, i.e. less than or equal to US\$50. These expenditures can be executed through an imprest account sheet prepared by the PRPP and available on the EBID intranet portal.

Any request for imprest account expenditure must be addressed in advance to the PRPP based on the standard form accompanied by the pro-forma invoice submitted.

However, when the beneficiary is unable to make a prior request, he must send to the PRPP, within five (5) calendar days at the latest, the supporting documents of the expenditure actually incurred with a view to its reimbursement.

Article 64: Direct purchase

Any acquisition of supplies, works, services or intellectual services for an amount less than or equal to \$1,000 may be carried out under the direct purchase procedure.

In this respect, the requesting and/or beneficiary structure sends its purchase request to the PRPP accompanied by the appropriate description. In this method, the PRPP requests for a single pro forma from the contractors registered on the database or any other qualified service provider. However, it is not prohibited to request three (3) proforma invoices in order to optimize costs.

In this method, quotations may be solicited by any means (e-mail, post, telex, etc). However, the CA must ensure compliance with the rules of ethics and transparency.

Article 65: Class A Shopping

This method relates to any acquisition of goods, works, services or intellectual services whose amount is greater than US\$50 and less than or equal to US\$10,000,000.

In this procedure, the requesting and/or beneficiary structure addresses its request for procurement to the PRPP. This request is accompanied by the terms of reference or the specifications.

The PRPP organizes a restricted consultation with at least three (3) tenderers, unless it can be demonstrated that it is impossible to obtain 3 pro-forma.

When no tenders are received at the end of the two-week maximum submission deadline, depending

on the nature of the procurement, or when only one tender is received, the PRPP extends the deadline or restarts the process by expanding the list after taking care to ascertain the reasons for the non-participation of the tenderers initially consulted.

At the end of the reminder or extension period, the selection process continues regardless of the number of bidders who have submitted their bids.

Under this procedure, bids can be sent by e-mail to the official address of the PRPP. However, the PRPP shall take appropriate measures to ensure confidentiality.

It is not necessary to convene the Contracts Committee. However, the PRPP shall take appropriate steps for a joint analysis of the tenders with the applicant and/or beneficiary structure.

In this method, quotations may be requested for by any means (e-mail, post, telex, etc.). However, the CA must ensure compliance with the rules of ethics and transparency.

Article 66: Class B shopping

This method applies to acquisitions of non-consulting supplies, works or services where the amount is greater than US\$10,000 and less than or equal to US\$20,000.

The procedure is Class B Shopping corresponding essentially to that of Class A Shopping with the only difference being that for Class B Shopping, the publication of the request for quotation on EBID's website is mandatory.

In this method, quotations may be requested for by any means (e-mail, post, telex, etc). However, the CA must ensure compliance with the rules of ethics and transparency.

Article 67: Class A calls for tenders

This method of procurement applies to the procurement of non-consultant supplies, works and services for amounts greater than US\$ 20,000 and equal to or less than US\$ 100,000.

The related call for tender is prepared on the basis of the sample request for tenders and necessarily published on EBID's website or on other national or international portals on the initiative of PRPP.

All invitations to tender are open to regional and international firms and therefore necessarily published at least on EBID's website. There is no restricted or national or regional call for tenders. The minimum bidding, unless there are exceptional circumstances, is fifteen (15) calendar days. The currencies used are US Dollars and CFA Francs.

Article 68: Class B Tendering

The procedures for Class A and B call for tenders are identical except that the deadline for submission is 30 days for the Class B call for tenders and 15 days for the Class A call for tenders. Then, regarding the analysis process, the bids from the A call for tenders are examined by the ordinary committee and those from the B call for tenders fall within the purview of the Special Contracts Committee.

Regardless of the type of call for tenders, the deadline for the submission of tenders may be modified by means of one or more addenda on the initiative of the CA.

Article 69: Pre-qualification

It applies to the procurement of non-consulting supplies, works or services of great technical, legal or financial complexity. It is a procedure in which the final choice of tenderer is based on a personalised technical solution and not simply on a comparison between the technical specifications proposed. The procedure takes place in two consecutive phases. In the first phase, based on a pre-qualification file mainly contingent on financial and organisational capacity, an unlimited number of tenderers are pre-selected. Then, the tender dossier is sent only to the pre-selected bidders for final selection.

Article 70: Competitive Dialogue

This procedure applies to the procurement of non-consultant supplies, works or services for which the Contracting Authority does not have the competence to ensure the legal, administrative, technical and financial arrangements. Based on this, it publishes an invitation to tender in which candidates propose technical solutions. In this way, the Contracting Authority engages in a transparent dialogue with the competing candidates. This dialogue may take place in several successive stages. At the end of the dialogue, the Contracting Authority informs the economic operators whose solutions have not been selected and finalises the call for tenders with a view to the final selection.

Article 71: Competitive tendering

It is a procurement method applicable mainly to works of the mind, artistic and the capacity for cultural creation. It is generally conducted in the form of a competition, in particular, with rules and a selection panel. The final choice concerns the selection of a project proposed by a prize winner. In addition, the two candidates with projects ranked consecutively second and third are awarded prizes.

Article 72: Management

Management is a contract execution technique whereby the Contracting Authority carries out the work itself with its own material and personnel resources. It applies to all categories of procurement.

It is mainly used for routine or small-scale work, for urgent work, and for work which no company has agreed to carry out.

It is subject to the following conditions:

- The estimated contract value is less than or equal to US\$100,000;
- The works to be carried out are of little interest to the bidders, due to their geographical location;
- In case of emergency, in particular to compensate for the failure of a contractor.

Article 73: Unsolicited offer

It is a project proposed by an economic operator in the absence of a call for tenders by the contracting authority.

The contracting authority is not obliged to accept the unsolicited bid. However, at its discretion, it may accept the unsolicited tender under the following conditions:

- The unsolicited offer is of economic and strategic interest;
- The amount of the project is equal to or greater than US\$ 1,000,000;
- The project is led by a regional company or a company whose capital is at least 51% owned by ECOWAS nationals;
- The bidder is not subject to sanctions by the MDBs for fraud or corruption.

Only the Contracting Authority is competent to assess the admissibility of the unsolicited bid. In this respect, the two assumptions below are plausible:

- Rejection of the bid at the discretion of the Contracting Authority;
- Admissibility of the unsolicited offer.

The admissibility of the unsolicited offer does not imply the award of the contract. It automatically entails the organisation of an open call for tenders in which the promoter may participate, under the same conditions as the other competitors and without any advantage whatsoever.

Article 74: Opening of tenders

The opening of the offers received within the framework of the imprest account, direct purchase or Class A and B shoppings, whatever the type, is not subject to any procedural formalism. The PRPP is responsible for opening or receiving offers directly by e-mail if required. However, it must ensure that offers sent outside the required dates and times are not accepted. It shall also take appropriate measures to prevent the substitution of offers.

In the case of tenders resulting from calls for tenders (single envelope system), the opening of tenders takes place only once, following the steps below:

- Opening by the procurement committee (Ordinary or Special) of all the bids received at the date and time fixed in the tender regulations;
 - Bids received after the date and time set in the tender specifications will not be opened and will be returned to the sender;
 - Bids are opened in the presence of bidders who so wish;
 - The originals of the letters of tender are initialled by the members of the committee (ordinary or special) present or represented;
 - Bids are opened in ascending order of submission;
 - The amounts proposed by each bidder on their letters of tender are read aloud by the Chairman of the Committee;
 - Minutes of the opening of bids are drawn up and signed by all the members of the committee and the bidders' representatives present. The said minutes shall be published on EBID's website;
 - In the case of intellectual services, the opening takes place in two stages. The same applies to the evaluation (double envelope system);
 - In the first stage, the Contracts Committee opens the envelopes bearing the technical folds. Those containing the financial proposals are sealed pending completion of the technical analysis process. The financial proposals are then opened.
- **Assessment of the conditions of participation:** Verification of the validity, delivery and guarantee periods;
 - **Analysis of the financial capacity of the tenderers in the absence of pre-qualification:** Evaluation and comparison of the tenderers' assets and liabilities;
 - **Evaluation of technical offers:** Comparison between the technical specifications required in the Bid Data Sheets (BDSs) and those proposed by the tenderers;
 - **Evaluation of financial offers including analysis of the acceptability of the bid:** conversion of all offers into a single currency, verification of possible calculation errors and comparison of amounts, analysis of the reasonableness of the amount of the bid;
 - **Post-qualification checks:** check the information contained in the technical references of the bid;
 - **Drawing up the final evaluation report of the selection.**

At the end of the evaluation process, the contract is awarded to the tenderer whose offer is the most economically advantageous in terms of quality/cost ratio and not necessarily the lowest.

The evaluation of the offers must take into account, if required according to the nature of the acquisition, all direct and indirect costs during the life of the asset.

Throughout the evaluation of the offers, the members of the technical committees and sub-committees are bound by an obligation of reserve and neutrality.

They must not enter into informal contact with any of the bidders in the competition or provide them with information that could vitiate the analysis process.

In this respect, all members of the TSC sign a declaration of impartiality and confidentiality, made available to them for each file by the PRPP.

During the evaluation process, clarifications may be requested for in writing from the candidates in contention. These clarifications must not be of such a nature as to call into question the free play of competition.

Article 75: Evaluation of tenders

The evaluation of tenders is carried out according to the following main steps:

- **Preliminary examination of tenders:** verification of administrative documents and eligibility criteria;

Article 76: Variants

These are alternative offers on the initiative of tenderers in response to a call for tenders for supplies, works, non-consultant services or intellectual services. Variants can only be taken into account in the evaluation if they have been expressly authorised in the rules of the call for tenders.

If no such authorisation is given, the variants shall be deemed not to have been authorised in the tender documents.

Variants are only examined if the basic offer it supports is admissible.

In order to consider variants, a comparison between the basic offers is first carried out. Then the variants are compared with each other. Finally, a comparison is made between the best basic offer and the best alternative offer in order to determine which is the most advantageous between the two.

Article 77: Options

Options are possible additional services that candidates are obliged to provide in their offers at the request of the client and which the contracting authority reserves the right to order or not.

The amount of the options shall be in addition to that of the main offer.

Article 78: Margins of preference

For supplies manufactured in the ECOWAS sub-region, with raw materials and regional labour, a margin of preference of 15% is granted in relation to imported products. This margin of preference applies to the origin of the supplies and not the nationality of the supplier.

For the evaluation of the bids in question, those relating to supplies manufactured in the ECOWAS sub-region are grouped together in group A and other imported supplies in group B.

Then, a comparison is made between the amounts of the offers in Group A and those in Group B also between them.

Finally, a final comparison is made between the bid whose amount is the lower of the two groups in order to determine the successful tenderer.

If the lowest bid at the end of this comparison is from Group A, no margin of preference is applied.

However, if the lowest bid comes from Group B, a 15% margin is applied to its bid. If the application of this margin makes the Group B bid more expensive, the contract will be awarded to the second highest ranked Group A bidder. On the other hand, if notwithstanding the application of the 15% margin, the Group B tender is still the lowest, the contract will continue to be awarded.

Where there is a possibility of joint margins, the Contracts Committee will select the most advantageous for the tenderer.

With regard to the margins of preference linked to the works, a virtual discount of 7.5% is applied to the amounts

of the bids proposed by the regional companies. The same applies to bids proposed by regional craftsmen (5%) and international tenderers having subcontracted at least 30% of the contract to regional companies (15%).

As for the 10% margin of preference, it applies to international firms that are obliged to include at least 10% of their key personnel of regional experts.

Margins of preference are only applicable in the context of calls for tenders for which the estimated amount is equal to or greater than US\$100,000.

Article 79: Award of contracts

In accordance with its cost containment policy, no contract may be awarded to a tenderer irrespective of the nature or method of purchase without having demonstrated the acceptability of the price to the satisfaction of the Contracting Authority.

Contracts shall be awarded to the tenderers whose bids are the most advantageous in terms of quality/cost ratio and not necessarily the lowest.

In the case of fixed assets, the award of the contract must take into account all costs of ownership over the lifetime of the acquisition.

Article 80: Abnormally low or abnormally high tender

An offer is deemed to be abnormally low or abnormally high if its price does not correspond to an economic reality taking into account market prices. The abnormally low or abnormally high bid is determined on the basis of a calculation formula in the tender documents. If a tender proves to be abnormally low, the contracting authority may reject it by informed decision only after having requested in writing for the details it deems appropriate; and also, having checked the justifications provided within three working days of receipt of the request, with justifications relating in particular to the following aspects:

- (a) the methods of manufacture of the products, the construction processes, the technical solutions adopted, the arrangements for the provision of services;
- (b) the exceptionally favourable nature of the conditions of execution enjoyed by the applicant;
- (c) the applicable environmental, social and labour regulations in force at the place of performance of the services;
- (d) the originality of the project;
- (e) the sub-detail of the prices.

If the offer proves to be abnormally low or high, the reality of the estimate made by the PRPP must be verified before rejecting it.

Article 81: Rejection of all tenders.

The rejection of all bids is justified when there has been no genuine competition, or when the bids received do not substantially conform to the provisions of the solicitation documents or when the prices of the bids are significantly higher than the estimated budget. The absence of competition is not only a function of the number of bidders. The CA may reject all bids without prejudice to the CA. This rejection may take place at any stage of the procedure. In such a case, the CA should analyse the reasons for the rejection and consider the possibility of revising the specifications, design and provisions, the scope of the contract or a combination of these before re-tendering. The rejection of all bids cannot be solely to obtain lower prices.

Article 82: Bid evaluation report

The Contracts Committee shall take the appropriate steps to ensure that the evaluation is completed before the expiry of the period of validity of the tenders. If necessary, the PRPP invites tenderers to extend the period of validity of their offers/proposals or to update them if necessary.

At the end of the evaluation of the offers/proposals, an analysis report is prepared and submitted to the corresponding approving authority according to the dedicated thresholds. This report is drawn up on the basis of the CA's standard models.

This report can be approved with or without reservations or rejected.

In the event of rejection, the Contracts Committee meets to examine the conduct to be tarnished, which may consist in a new examination of the bids or in declaring the contract irrelevant or unsuccessful.

In the case of a contract for intellectual services, there is first a report analysing the technical proposals and an evaluation report combining the technical and financial proposals. When the Request for Proposals is preceded by a Notice of Expression of Interest, a pre-selection report of the applications is also prepared. The same applies to pre-qualification files.

Article 83: Debriefing

After approval of the final evaluation report, the PRPP reserves the right to organise a debriefing session with all candidates who responded to the call for tenders

to notify them of their performance and also the limits of their bids. This session is public and must respect the principles of transparency and ethics. During the debriefing, the candidates can ask questions in order to learn lessons to better prepare for future calls for tender.

Article 84: Notification and publication of provisional results

As soon as the final evaluation report is approved, the CA will proceed with the provisional notification of the contract to the prospective bidder. Subsequently, the provisional results are published on the EBID website in case of open tender or communicated in writing to the other candidates having participated in the selection process.

Article 85: Administrative Appeal

No later than five (5) working days after publication and/or notification of the provisional results, unsuccessful candidates may file an administrative appeal with the PRPP. The administrative appeal shall be made by a written letter filed with the PRPP secretariat against a release. However, under penalty of inadmissibility, the letter of appeal must be accompanied by a deposit of the equivalent of US\$4,000. This deposit may be paid in cash, either by crossed cheque or by any other approved means of payment. The deposit is refundable when the complainant's petition has resulted in the modification of the results in his favour. The object of the appeal may relate not only to the results of the award but also to the violation of the tender rules that influenced the final choice. The PRPP must respond to the request within 15 calendar days. If the PRPP does not reply within the deadline, the application is considered to be rejected. The PRPP will not respond to lax appeals with maliciously dilatory intent. During the above fifteen (15) day period, the award process shall be temporarily suspended.

Article 86: Hierarchical appeal

Where an applicant has not been satisfied with the responses to his complaint by the PRPP, he may bring his appeal before EBID's Dispute Resolution Committee. This second level appeal must be made no later than seventy-two (72) hours after receipt of the decision of the PRPP.

The Dispute Resolution Committee shall have ten (10) working days to render its decision. In the event of the DRC's silence, the appeal shall be deemed to be rejected. The Decision of the DRC is not subject to any other internal appeal. However, the complainant reserves the right to refer the matter to the competent court in accordance with ordinary law. An appeal

before the ordinary courts does not suspend the award of the contract. An application for administrative review is a prerequisite for an appeal to a higher authority. The DRC must imperatively proceed to a conciliation before examining the substance of the dispute. In the event of success, a conciliation report is prepared and signed by the Parties.

Article 87: An appeal for misuse of authority

An action for annulment for misuse of authority is exercised by any potential bidder who was unable to participate in a competitive tender due to the violation of a rule of the CA's procurement procedure. Examples include failure to comply with deadlines for submission, advertising and competition. This appeal does not suspend the award. It is formulated in the same forms and time limits as the administrative appeal.

Article 88: Final notification

Final notification takes place after the deadline for appeal has expired. When an appeal is lodged, it takes place after the appeal has been disposed of except in the case of referral to the ordinary courts and appeals for annulment for misuse of authority.

Article 89: Call for tenders without action

When, after the launch of a call for tenders, the very object of the acquisition has lapsed, the CA shall make a declaration of an unsuccessful call for tenders in the same forms as the call for tenders concerned. This declaration leads to a suspension of the process without prejudice to the CA.

Article 90: Unsuccessful call for tenders

The call for tenders may be declared unsuccessful when the following situations arise:

- At the end of the time limit for submitting a call for tenders, no bid has been registered regardless of the method;
- Only one envelope is received at the end of a restricted call for tenders;
- Less than 6 envelopes are registered when the first Call for Expression of Interest (CEI) is closed;
- No bids were found to be compliant after the technical analysis;
- All bids are above the available budget allocation.

However, when at the end of the deadline for submission of an open call for tenders, only one envelope is received, it may be opened and analysed if it is established that the time and publicity requirements have been met.

Article 91: Signing of contracts and purchase orders

Upon final notification, the draft contract already negotiated and initialled is signed first by the holder and then by the CA or its duly authorised representative. The CA shall gradually put in place standard contracts according to the nature and size of the acquisitions. The PRPP is responsible for drafting and negotiating the contracts. If necessary, it may periodically seek technical advice from the legal department on the interpretation of certain clauses. However, expenses of US\$20,000 or more must be covered by a contract and not a simple purchase order, except with the prior agreement of the President.

Article 92: Publication of awarded contracts

The PRPP periodically publishes the contracts awarded on the EBID website. This publication includes in particular the list of contractors, the amount, the purpose of the acquisition as well as the duration and place of execution.

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CHAPTER IV : PROCUREMENT OF INTELLECTUAL SERVICES

Article 93: Terms of reference

Preparing the terms of reference is a mandatory step for any selection of "intuitu personae" consultants or firms. They describe in detail the scope of the requirements of the assignment, in particular the context of the assignment, its objectives, results, intervention strategy, initial planning and reporting.

Article 94: Notice of expression of interest

The notice of expression of interest is a pre-selection procedure for individual consultants or firms. It is either optional or mandatory depending on the thresholds.

If required, notices of expression of interest must be posted on the EBID website for a period of at least 10 working days.

At the end of the submission period, the Contracts Committee shall open the files received and draw up a short list of six firms including at least two from ECOWAS, unless it is impossible to have them. If beyond this deadline:

- no file is received;
- the number of files received is less than 6.

The contracting authority declares the contract unsuccessful and relaunches the notice of expression of interest in at least the same form and conditions. At the end of the new submission deadline, the process continues regardless of the number of bids received.

When a shortlist of candidates is selected, the request for proposal or invitation letter is sent to these candidates only.

Article 95: Technical evaluation criteria

As far as law firms are concerned, the main technical evaluation criteria generally used are as follows:

1. Organisational capacity of the firms;
2. Methodological approach and work plan;
3. Qualifications and experience of key personnel;

4. Involvement of regional experts.

Article 96: Double envelopes

The principle of double envelopes is systematically applied in the employment procedure for firms or individual consultants. Thus, the opening and evaluation of proposals is done in two stages. Technical and financial proposals are placed in separate envelopes.

Article 97: Minimum technical score

Regardless of the method of firm selection, the minimum technical qualification threshold required to be admissible at the financial assessment stage is 80 points out of 100. Financial proposals from firms that do not achieve this technical score will not be opened and will be returned to them at the end of the selection process.

Article 98: Negotiations

Regardless of the method, negotiations are mandatory in the selection process of individual consultants or firms. On a technical level, they enable the timing of the assignment and the terms and conditions of performance to be fine-tuned.

On the financial level, they cover the payment of reimbursable expenses, taxes and transaction costs. If negotiations with the prospective firm fail, the CA may invite the firm ranked second.

SECTION 3: METHODS FOR SELECTING CONSULTANTS

Article 99: Selection of individual consultants

This method is used for services above US\$1,000 and up to US\$20,000 per contract.

Individual consultants are selected primarily on the basis of their qualifications and experience. A request for proposals is not required. A letter of invitation may

be issued to five consultants selected based on their skills and experience. When a candidate civil servant or employee in the private sector is invited, he or she must produce a certificate of leave of absence without pay.

Article 100: Selection based on technical quality and cost

It applies to services for which the estimated amount is more than 20,000 US dollars. Its scope covers important missions for which it is critical to combine technical and financial analysis based on weighting factors. This reference method is for the use of consulting firms. It is the equivalent of the international call for tenders. The award formula is indicated in the Request for Proposals (RFP).

Article 101: Selection based on the quality of the consultant

This mode of selection covers very complex assignments for which it is unlikely to obtain proposals. These include cadastral and mining missions, cutting-edge studies, innovation missions, etc.

This procedure can be steered in two ways. In this context, the CA solicits only technical proposals. At the end of the technical evaluation, it invites the candidate with the highest technical score for negotiations. It can also invite firms to make technical and financial proposals. At the end of the technical analysis, it opens only the financial proposal of the firm with the highest technical score.

Article 102: Selection at the lowest cost

It applies mainly to less complex routine tasks for which there are norms and standards, such as auditing, inspection, etc.

In accordance with the technical itinerary of this procedure, the contract is awarded to the firm with the lowest financial amount among the technically qualified firms.

Article 103: Selection within the framework of a determined budget

This method applies to benefits not exceeding USD 100,000.

In this procedure, the amount of the budget allocation is communicated in the RFP. During the financial evaluation, financial proposals from firms whose amounts are higher than the published allocation are set aside.

The contract is then awarded to the firm with the highest technical score.

Article 104: Selection based on the qualifications of the firms

It essentially corresponds to the method of selection of individual consultants. The difference is that it relates to firms.

Article 105: Procurement by direct agreement or by mutual agreement.

This is a method of awarding contracts which consists of entering into direct negotiations with a single service provider/entrepreneur or supplier with a view to awarding a contract for supplies, works, routine services or intellectual services. It is subject to the following preconditions:

- The equipment to be acquired and services to be provided are protected by a monopoly, source codes, patents or exclusive rights;
- When the needs can only be satisfied by a single economic operator because of their artistic, technical or ergonomic specificity;
- In cases of urgent need due to unforeseeable circumstances or force majeure which make it impossible to meet the deadlines laid down in the competitive procedures, requiring immediate intervention, and where the contracting authority has not been able to foresee the circumstances giving rise to the urgency;
- When it concerns an extension of a contract when the first one has been satisfactorily executed following a competitive call for tenders. In this case, the subject matter of the new contract must be identical to that of the first, particularly in terms of functionality, ergonomics and technical performance. The maximum period between the two purchases must be less than or equal to three (3) years from the date of delivery or provisional acceptance of the products.
- When the procurement of supplies, works, services or intellectual services concerns the protection of strategic interests, they are carried out on the Bank's sensitive sites in terms of security or for environmental and social protection reasons;
- In cases of extreme urgency, for works, supplies or services which the Contracting Authority must have carried out in place of the defaulting contractor, supplier or provider;
- Where the works, supplies or services are carried out solely for the purpose of research, testing or improvement;
- When two calls for tender have proved unsuccessful;
- When the President of EBID decides on the basis of the information available to him and with a view to safeguarding the best interests of the nation;
- When a competition will not bring any advantage.

All procurement of supplies, works or services by direct agreement shall be subject to prior authorisation based on a memo submitted by the PRPP for its approval.

Any acquisition made by agreement without the prior authorisation of the President shall be null and void.

At the end of each financial year, the PRPP prepares a report on the performance of the procurement system, showing in particular the proportion of acquisitions made by private treaty and the percentage of contracts awarded to regional SMEs.

Article 106: Standing contracts

In some cases, the Contracting Authority is unable to determine in advance the volume and pace of orders for routine supplies necessary for the operation of its services, which may have a limited lifespan, or exceed the potential for storage. On the other hand, the nature of the goods and services is precisely determined.

For these contracts, the quantity may be difficult to specify, hence the interest of placing them in the form of a purchase order.

The standing contract (awarded on the basis of an open or restricted invitation to tender for unit prices) sets only the minimum and maximum value or quantity of services that may be ordered during a given period not exceeding the period during which the budget appropriations are used. The calculation of the amount of the contract for the evaluation of the thresholds is carried out based on the maximum.

Standing contracts shall be awarded on the basis of the quantities needed for the initial year of operation.

The Contracting Authority shall award this contract which shall be performed successively to one or more suppliers. It shall include the maximum and minimum quantities required from the successful tenderer(s) and

the corresponding prices. The Contracting Authority will issue purchase orders to express the services expected by the Contracting Authority; while the maximum is binding on the contractor, only the minimum is binding on the Contracting Authority. The Contracting Authority is obliged to place orders with its co-contractor up to the minimum amount and to address itself exclusively to the latter for the services falling within the subject matter of the contract, until the expiry date and the maximum stipulated in the contract are reached. The contract may be concluded for a period of one year, renewable three (3) times.

The renewal of the standing contract is subject to the annual performance evaluation deemed satisfactory to the CA.

Article 107: Customer contract

It is a contract by which the Contracting Authority undertakes to entrust, for a limited period of time, the execution of all or part of certain categories of services, at prices and conditions determined in advance, in relation to operating expenses, according to orders made as and when required. It may also be concluded with one or more contractors or suppliers. When inviting competitive bids, in order to enable bidders to submit a seriously considered price offer, the Contracting Authority should indicate the quantities of the service used over an elapsed period, the duration of which should, if possible, be the same as the period for which it is intended to transact the operations.

Renewal of the customer's contract depends on the annual performance evaluation that is satisfactory to the CA.

Article 108: Contracts on controlled expenditure

The controlled expenditure contract is a contract which gives rise to the reimbursement by the contracting authority of the contractor's actual authorised and controlled expenditure, plus a fee or with coefficients to cover overheads, taxes, duties, charges and profit.

Recourse to this type of contract is exceptional. It is reserved for works contracts only where it is not possible for the contracting authority to deal with it under normal conditions, because of technical considerations unforeseeable at the time the contract is awarded, or where costs cannot be determined in advance with sufficient precision or where the operation presents significant risks.

For this type of contract, it is prepared by using hourly labour prices and the prices of materials used on the site as references. The cost of construction is determined as it is carried out by the contractor. The contract must indicate the nature, volume, method of calculation, the

value of the various elements that contribute to the determination of the cost of completion and the controls to which the contractor is subject. The specifications set the maximum amount of services remunerated on the basis of controlled expenditure. The amount of services remunerated based on controlled expenditure may under no circumstances exceed 2% of the initial contract sum.

Article 109: Management and Maintenance Contract by Service Level (GENIS)

The GENIS contract is a public contract whose purpose is to ensure a continuous quality service to users. The incumbent operator of the GENIS contract is in charge of a number of activities focused on management and systematic monitoring of the infrastructure concerned. It also covers, under the conditions spelled out in the contract, the execution of initial upgrading works necessary to bring the infrastructure up to the prescribed standards, improved works specified by the contracting authority with a view to giving these infrastructural facilities new characteristics to meet traffic trends, safety or other imperatives, as well as emergency works intended to restore these infrastructural facilities to a good state of repair following damage caused by natural phenomena with exceptional consequences.

This contract is based on an obligation to achieve results, which has an impact on the holder's remuneration. Companies are not remunerated on the basis of the means deployed, i.e. the volume of activity carried out in terms of physical works, but based on their results corresponding to the initial upgrading of the infrastructure in accordance with the prescribed standards. This remuneration also takes into account the maintenance services required to ensure the quality levels prescribed for the infrastructure that is the subject of the contract, as well as certain improvements specific to the infrastructure, in accordance with the specifications. The specifications applicable to these contracts include standard specifications relating to performance criteria. The levels of service required of the company are thus expressed by a series of performance criteria, i.e. by a series of thresholds to be met. These results must be duly recorded and should reflect the service levels actually achieved under the terms of the contract. If the required level of service is not achieved for a given period, the remuneration for that period is subject to a reduction in line with the specifications.

The tendering procedure shall put the undertakings in competition based on the quality level of the services offered and taking into account the periodic, fixed and lump-sum remuneration that they request for a given volume of the subject matter of the contract. Such contracts may be concluded for a maximum period of three years.

Article 110: Turnkey contracts

The turnkey contract is a single responsibility contract based on a fixed price and for which payments are made according to a contractual schedule. For such a contract, the contracting authority indicates the broad outlines of the project, i.e. its main technical parameters. In the context of a turnkey contract, the design and technical studies, the supply and installation of equipment and the realisation of a complete installation where works are the subject of a single contract. The contracting authority may retain responsibility for the design and technical studies and issue a call for tenders for a single responsibility contract covering all the supplies and works included in part of the project.

Article 111: Design-build contract

The design-build contract is a works contract enabling the contracting authority to entrust an economic operator with a mission covering both the preparation of studies and the execution of works. It is used if technical reasons or a contractual commitment to improve energy efficiency make it necessary to involve the contractor in the work studies. The technical reasons mentioned are related to the purpose or technical implementation of the work.

The following are concerned:

- operations whose main purpose is production, the process of which determines the design, execution and implementation;
- operations whose characteristics, such as exceptional dimensions or specific technical difficulties, require the use of the economic operators' resources and technical skills.

Article 112: Contract for design, execution, operation or maintenance

The design, construction, operation or maintenance contract is generally awarded within the framework of an energy performance contract.

However, it can be used to meet any other measurable performance objective.

For the construction of new buildings, this contract can be used if there are technical reasons to involve the contractor in the design of the work. Recourse to the design, construction, operation or maintenance contract under this Code is subject to the following cumulative conditions:

- the financing of the contract is entirely provided by the contracting authority which is the project owner for the operation;

- the contractor does not assume any operating or maintenance risk;
- the contract is remunerated on completion of each phase or tranche of the contract. The duration of the contract takes into account the time required to achieve the objectives and commitments specified in the contract. Design, construction, operation and maintenance contracts may be subject to negotiation. However, these may in no case relate directly to the candidate's financial offer.

The design, execution, operation or maintenance contract shall follow the same procedure as that laid down for the design-build contract. In order to award the design, execution, operation or maintenance contract, the contracting authority shall use a number of criteria, including the overall cost criterion and one or more criteria relating to performance objectives defined specifically in terms of level of activity, quality of service, energy efficiency or environmental impact. These contracts include measurable performance commitments.

The contract for design, construction, operation or maintenance must show, separately, the respective prices for construction and operation or maintenance. Remuneration for operation or maintenance services must be linked to the achievement of measurable performance commitments set by the contract for its entire duration.

Where the tender documents for a design, construction, operation or maintenance contract provide for the provision of services, they shall indicate the amount of the tenderers' premiums. The consultation rules must specify the terms of payment, the amount and any reduction procedures. The total amount of the premium awarded to successful candidates is equal to the estimated price of the design studies to be carried out as defined in the consultation documents, subject to a maximum reduction of 20%. The contract holder's remuneration takes into account the bonus he has received.

Remuneration for servicing and maintenance operations is not intended to remunerate the previous stages, in particular construction.

Article 113: Innovation contract

Innovation contract is the development of an innovative product, service or works and the subsequent procurement of the resulting supplies, services or works, provided they correspond to the maximum performance levels and costs agreed between the contracting authority and the participants.

The contracting authority may decide to establish an innovation contract with one or more economic operators who perform the services separately under

individual contracts. This decision shall be indicated in the notice of invitation to tender or in any other consultation document.

The innovation contract comprises of one or more successive phases following the research and development process and one or more phases for the acquisition of the products, services or works resulting from it. The structure, duration and value of the different phases of the innovation contract shall take into account the degree of innovation of the proposed solution, the duration and cost of the research and innovation activities required for the development of the innovative solution. The estimated value of the products, services or works whose acquisition is envisaged must not be disproportionate to the investment required for their development, regardless of the share of the research and development activities financed by the purchaser.

The contract defines the objectives of the different phases that the economic operator must achieve and the remuneration associated with each of them. At the end of each phase, based on the results obtained, the contracting authority decides:

- either, to continue the execution of the innovation contract, possibly after having specified or modified, with the agreement of the economic operator, the objectives of the next phase and the resources to be deployed to achieve them. The initial conditions of the innovation market cannot be substantially changed on this occasion;
- or, to put an end to the innovation contract or, where there are several economic operators, to reduce their number by terminating the contracts of some of them. The innovation contract shall mention this prerogative of the contracting authority and define the conditions for its implementation, including its financial consequences and the arrangements for selecting the economic operators with whom it is decided to continue the contract implementation. The execution of each phase is subject to a decision of the contracting authority notified to the economic operator, under the conditions laid down in the innovation contract.

The contracting authority may acquire the products, services or works resulting from the research and development phases only if they correspond to the performance levels and do not exceed the maximum costs provided for in the innovation contract.

The allocation of intellectual property rights, in particular, the results of the research and development phases, shall be provided for in the innovation contract.

In the consultation documents, the contracting authority shall define the need for the innovative products, services or works. It indicates the elements of this definition which set out the minimum requirements to be met by all

tenders. The information provided shall be sufficiently precise to enable economic operators to determine the nature and scope of the solution required and to decide whether or not to request to participate in the procedure.

The selection of applications shall take into account, in particular, the applicants' capacity in the field of research and development and in the development and implementation of innovative solutions. The contracting authority shall award the innovation contract on the basis of the initial offers, after negotiation. It negotiates the initial offers and all subsequent offers with a view to improving their content, with the exception of final offers. The award criteria and minimum requirements are not subject to negotiation. Negotiation may take place in successive phases, at the end of which some tenderers are eliminated by applying the award criteria defined in the consultation documents. The Contracting Authority shall indicate in one of these documents whether it will make use of this possibility. At the end of each phase, it shall inform all tenderers whose tenders have not been eliminated in respect of the changes made to the consultation documents and allow them sufficient time to modify their tenders and, if necessary, to resubmit them.

Article 114: Framework Agreements

The contracting authority may conclude framework agreements, in particular in the following cases:

- (a) Where repeated orders are based on the same or similar requirements or specifications;
- (b) Where different Contracting Authorities or different entities within the same Contracting Authority purchase the same supplies, works or services, the grouping of such requests shall allow volume discounts to be obtained.

The framework agreement may be concluded with one or more economic operators. If it is awarded to more than one, the number of holders must not be less than three, subject to a sufficient number of candidates and tenders received. Where the framework agreement sets out all the contractual stipulations, it is executed as and when purchase orders are issued. Where the framework agreement does not set out all the contractual stipulations, it shall give rise to the conclusion of subsequent contracts. The framework agreement may be performed partly by issuing purchase orders and partly by concluding subsequent contracts, provided that the contracting authority identifies the services to be provided under the different parts of the framework agreement. The contracting authority must not use framework agreements improperly or with a view to preventing, restricting or distorting competition.

Framework agreements may be concluded:

- either, with a minimum and a maximum in value or quantity;
- or, with only a minimum or a maximum;
- or, with neither minimum nor maximum. The duration of framework agreements may not exceed one year, renewable three times, except in exceptional cases duly justified and authorised by the President, in particular by their purpose or by the fact that their execution requires investments that can be amortised over a longer period.

Article 115: Allocations

Where the allotment is likely to have financial or technical advantages, including with a view to facilitating the application of small and medium-sized undertakings, the works, supplies or services shall be divided into lots, each of which may give rise to a separate contract. The tender dossier shall lay down the number, nature and size of the lots, as well as the conditions required for tendering for one or more lots and the arrangements for their award and shall indicate that the contracts will be awarded by the contracts committee based on the combination of lots evaluated as most economically advantageous by the contracting authority. If one or more lots are not awarded under a call for tenders, the contracting authority may initiate new competitive tendering procedures for the lots not awarded by modifying, if necessary, the consistency of those lots. Procurement procedures relating to works, supplies or services arising from or having the character of craft activities must provide for a breakdown of the acquisitions into lots. These lots may each give rise to a separate contract, with a view to facilitating access by artisans and craft enterprises by increasing the supply of business opportunities in line with their financial capacity.

Article 116: The Best Final Offer

This is a procedure whereby Bidders/Proponents having submitted bids deemed technically responsive are invited by the CA to submit their BFO. Such a procedure may be appropriate where the procurement process would benefit from a final opportunity for Bidders/Proponents to improve their bids, such as by lowering prices, clarifying or modifying their bids, or making additional clarifications.

The solicitation document clearly indicates that the BFO procedure will be used and specifies the conditions for its implementation.

The BFO is applicable to the procurement of supplies, works, non-consultant services and intellectual services at the discretion of the CA.

No negotiations are possible after the AFA.

Article 117: Prudent Procurement

The contracting authority may find itself in some cases faced with certain purchases with atypical features that fall outside the classic nomenclature of conventional procurement procedures. In such cases, the CA shall ensure that such purchases are made in strict compliance with the fundamental principles of healthy competition, transparency and cost control. These are essentially the following selection methods:

- Selection of individuals for purchases other than intellectual services;
- Public Private Partnership;
- Selection of United Nations Agencies;
- United Nations Procurement Centres (IAPSO, UNIPAC);
- Community Participation in Procurement;
- Business Practices;
- Electronic Reverse Auctions;
- Set-aside procurement;
- Dynamic Procurement System.



PART IV:
EXECUTION
OF PUBLIC
PROCUREMENT
CONTRACTS



4

CHAPTER ONE :

STARTING CONTRACTUAL ONLIGATIONS

Article 118: Date of entry into force of contracts

The effective starting date of the contractual obligations is determined by agreement between the two parties. Thus, the parties to the contract may agree that the contract takes effect on the date of the:

- Last signing of the contract;
- Signing of the minutes of the scoping meeting;
- Payment of the start-up advance;
- Handing over of the title of exemption, with regard to the supplies to be imported;
- Provision to the CA of certain administrative documents, in particular the guarantees required in the call for tenders regulations;
- Signing of the site handover report;
- Signing of the service order, etc.

Article 119: Service orders

These are written documents, dated and signed by the project owner or his representative, by which they order the successful contractor to start the execution of his contractual obligations. Service orders find their preferred field in works contracts. They may not modify the subject of the contract. Service orders are immediately enforceable. However, the account holder may only be required to execute orders that comply with the terms of the contract. When the account holder considers that the prescriptions of a service order call for reservations on his part, he must, under penalty of foreclosure, notify them to the administrative management unit, the delegated project owner or the project manager if there is one, within fifteen days. Service orders relating to subcontracted services are sent to the holder, who alone has the right to submit reservations. In the case of grouping, service orders are sent to the Agent, who is also the only one qualified to express reservations.

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CHAPTER II : EXECUTION OF CONTRACTS/PURCHASE ORDERS

Article 120: Fundamentals of market management

Contract administration and management is the set of procedures, operating modes or platforms put in place by the CA to ensure optimal fulfilment of the obligations by the Parties. It is mainly based on the following four pillars

- Conformity of the deliverables defined in the contract;
- Compliance with the execution or delivery deadlines;
- Cost control;
- Business relationships.

Contract management is increasingly based on automated platforms.

Article 121: Start-up advances

Start-up advances are sums paid to the contract holder by the Contracting Authority before the start of contract execution. Within the framework of its policy to support SMEs, EBID authorises in principle the granting of start-up advances to contract holders up to a maximum of 50%, irrespective of the type and amount of the acquisition according to the following modalities:

- The rules of the call for tender provide for a clause dedicated to start-up advances as well as the conditions to which they are subject;
- On written request of the owner after the signing of the contract by both parties;
- The request for payment of the start-up advance is accompanied by a bank guarantee or insurance of equal amount. This guarantee must be issued by a credible regional and international financial institution;
- The guarantee issued must be valid for a period of up to 28 days after the date of surrender of the corresponding deliverable.

It is strictly forbidden to make payments without consideration, except with the prior written authorisation of the President.

Article 122: Advance payments

These are interim payments for services that have given rise to a commencement of performance. The amount of the advance payments must not, under any circumstances, exceed the value of the services to which they relate. They remunerate a service rendered.

Article 123: Pledging

Claims arising or to arise in connection with a contract may be pledged by an agreement concluded between the holder and a third party who is the beneficiary of the pledge. This third party may only be a bank or a financial institution approved for this purpose in one of the ECOWAS member countries. In case the third party is a Bank or an institution outside the ECOWAS zone, the latter must provide written proof that it has an approved correspondent in the regional area. In case the pledge has been constituted in favour of several beneficiaries, each of them alone shall collect the share of the debt assigned to it, payment may be made in the hands of a joint representative with regular powers if the parties have expressly stipulated so. On the other hand, within the framework of these regulations, the assignment of the pledge is only accepted with the express authorisation of the President at the prior written request of the contract holder.

Where the contract indicates the nature and amount of the services which the contractor intends to entrust to subcontractors benefiting from direct payment, this amount shall be deducted from the amount of the contract in order to determine the maximum amount of the claim which the contractor is authorised to pledge as security. If, subsequent to the notification of the pledge, the contract holder intends to entrust subcontractors benefiting from direct payment with the performance of services for an amount greater than that indicated in the contract, the authority responsible for supervising public contracts must require an amended copy of the deed of pledge before authorising the amendment for direct payment to the subcontractor of that amount. The amended pledge deed shall be notified under the same conditions as the original pledge deed.

Article 124: Penalties for late payment

Regardless of the nature or amount of the purchase, contracts and purchase orders must include a penalty clause with a threshold of 10% of the contract amount, under penalty of termination. This clause also

determines the method of calculating the penalties (daily, weekly, monthly rates, etc.) by mutual agreement between the Parties.

The payment of late payment penalties is not subject to a letter of formal notice. They are applied on the initiative of the CA, who will assess the appropriateness of the payment in the light of the facts stipulated in the contract.

The total or partial remission of penalties may be pronounced by the Contracting Authority, after notification of a PRPP in a report on the circumstances. Impediments resulting from force majeure shall exonerate the holder from any late payment penalties that may result.

Article 125: Interest on arrears

Under these regulations, no interest on arrears will be paid to contract holders for any reason whatsoever.

Article 126: Financial guarantees

The various financial guarantees in public procurement are characterised by standard forms, on the initiative of the CA. They are released no later than 28 days after the date of return of the deliverable or guarantee to which they relate. They may be issued by ECOWAS Banks or financial institutions or equivalents, but which necessarily have correspondents in our regional space.

Guarantee of return of start-up advance: It is intended to cover the advance paid to the contract holder at the start of the contract. Its amount is equivalent to the amount of the advance subject to payment.

Performance guarantee: This is provided by the contractor when the contract is signed and represents 10% of its value. It is intended to ensure the proper performance of obligations until delivery or provisional acceptance. SMEs, at their request, may be exempted from providing this guarantee. In this case, a deduction of 10% will be made at the time of each interim payment.

Performance guarantee: This corresponds essentially to the performance guarantee, particularly in terms of value. It is also provided upon the signing of the contract and covers all services up to 28 days after final acceptance.

Guarantee deposit: This represents 10% of the contract amount. It is provided on provisional acceptance and covers the guarantee period. It is released 28 days after final acceptance.

Ten-year guarantees: These are issued by a consortium of insurers. They have a life span of 10 years in order to guarantee the CA against construction defects in new works.

Article 127: Matrix guarantees

Warranty against latent defects: Manufacturers or dealers must deliver new equipment that is free from defects due to poor design, manufacturing defects or faulty materials. Consequently, the suppliers guarantee the Bank against hidden defects that may affect the new equipment delivered.

EBID does not purchase second-hand goods, except in exceptional circumstances when duly approved by the President.

Performance Guarantee: The suppliers guarantee that the new equipment delivered to the Bank shall conform to the technical specifications contained in the contractual documents. They guarantee, parts and labour, the proper functioning of the new equipment delivered during the period specified in the tender regulations. They are liable for the repairs, without delay and at their own expense, of all breakdowns occurring during the contractual guarantee period, unless they can prove that these breakdowns are related to reasons other than faults in the performance of their contractual obligations, manufacturing defects, design defects and latent defects.

Furthermore, the duration of the contractual guarantee referred to in the above paragraph shall be extended for a period equal to the period during which the equipment was unable to function as a result of the breakdowns.

Within the framework of this guarantee, the interventions of the supplier shall be carried out on EBID's premises or on those of the suppliers in case the interventions prove to be impossible on the Bank's premises because of the seriousness of the breakdowns. In this case, the equipment shall be dispatched and then re-routed at the supplier's expense.

The suppliers are required to proceed, immediately and at their own expense, with the temporary replacement of the equipment to ensure continuity of service, until replacement or final repair.

Guarantee in the event of counterfeiting: The contract holder guarantees the Bank against any claims and intervenes at its own expense in legal actions, whether well-founded or not, arising from counterfeiting, patents and infringement of copyright or trade secrets. He shall bear all costs incurred by the Bank in connection with his actions. If a third party asserts legitimate rights due to infringement of intellectual property rights or other rights on the equipment supplied under this contract, the Supplier undertakes to acquire, at its own expense, for the benefit of the Bank, a right of use and, failing this, to modify or replace the equipment at its own expense and at its own convenience, while ensuring that it complies with the specifications provided for in the contract.

Article 128: Amendments

Any amendment to the contractual clauses of an approved contract shall be the subject of an amendment concluded between the Contracting Authority and the contractor. However, the normal set of price reviews, in keeping with the contractual clauses, does not give rise to the conclusion of an amendment. The revised amount of the contract is communicated to the administrative unit responsible for the control of public contracts. An amendment may only relate to the following matters:

- (a) amendments to the terms of the initial contract necessary for its performance, including changes affecting the contracting authority or those affecting the form or legal structure of the contract, without calling into question the elements of the initial choice, the market economy or the contractor;
- (b) the execution of works, supplies or services not provided for in the contract but necessary for the performance of its object, owing to unforeseen hardship;
- (c) the reduction in the quantity of the works or supplies or the scope of the services;
- (d) the extension or reduction of the time limit for performance of the original contract. No amendment to a public contract may be concluded after provisional acceptance of the works, supplies or services which constitute its subject-matter. A contract resulting from an amendment may under no circumstances give rise to the conclusion of a new amendment.

However, an amendment, or the combination of several amendments, may not modify the subject of the contract or result in a cumulative variation of more than 30% of the amount of the initial contract, plus any amounts resulting from the possible application of clauses for updating or revising the contract.

In any event, such amendments may not have the effect of substantially altering the general scheme of the contract by introducing conditions which, if they had been included in the initial award procedure, would have permitted the admission of candidates other than those initially admitted or the acceptance of a tender other than that initially selected or would have attracted more participants in the contract award procedure.

Where the proposed modification concerns quantities of works, supplies or services exceeding the 30% laid down in this Article, a new contract shall be awarded. The same shall apply where, in the event of successive amendments, the amount of the last amendment to be concluded must bring the total of the cumulative amounts of the amendments above the said limit.

Any amendment involving a variation in the amount of

the initial contract must be authorised in advance by the President, failing which it will be null and void.

Amendments are signed and approved under the same conditions as the initial contract.

Article 129: Delivery of supplies and/or equipment

The delivery of the equipment covered by the contract is confirmed by the signing of a slip by the Parties. The PRPP is responsible for organising and supervising deliveries. Under penalty of nullity, the delivery note must be signed at least by the PRPP or its representative and the supplier. When the supplies delivered do not comply with the contractual specifications, they shall be returned to the holder at his expense. A letter of formal notice shall be sent to the holder within seventy-two (72) hours from the date the non-conformity is noted. Early deliveries are authorised but do not give rise to the payment of any premium. Parcel deliveries may also be accepted, if the contractual terms provide for them. Parcel deliveries may be accompanied by a refraction.

Article 130: Postponement

Postponement is the decision taken by the CA which has expressed reservations but which considers that the benefits could be admitted subject to corrections made by the holder.

In the case of works contracts, postponement occurs when the contracting authority decides to postpone the start of the works or to suspend their execution.

The decision to postpone is taken by the contracting authority, either on its own initiative for reasons of public interest or at the request of the contractor, in the event of unforeseen hardship. Where the Contracting Authority orders the postponement of the performance of the contract for more than three months, the contractor has the right to request for the termination of his contract. The same shall apply in the event of successive postponements whose cumulative duration exceeds three (3) months.

In the event of postponement, the holder is entitled to compensation for the loss suffered, except in the event of fault or failure to fulfil his obligations.

The compensation for the injury suffered to which the holder is entitled in the event of postponement may not exceed the amount of the expenses caused by this postponement as they result from the supporting documents produced by the holder and verified by the administrative structure in charge of the control of public contracts. This compensation, the amount of which is fixed by mutual agreement, does not give rise to the signing of an amendment.

Article 131: Provisional acceptance of deliverables

Provisional acceptance only occurs for acquisitions with a guarantee period. It is compulsory and is always sanctioned by a report signed by both parties. The PRPP is responsible for the organisation of all the acceptance (provisional or final) for which it signs the relevant minutes or through its representative.

Its purpose is to control and ensure the conformity of the services with all the obligations of the contract and, in particular, with the technical specifications. If the schedule of special administrative clauses so provides, acceptance may be pronounced by instalments of services, it being specified that, in this case, it is the acceptance of the last instalment that will take the place of provisional acceptance of services. The service provider shall notify both the PRPP, the delegated project owner or the project supervisor, in case there is one, in writing, of the date on which he considers that the services have been or will be completed. Provisional acceptance entails the transfer of ownership and risks to the project owner and constitutes the starting point of the contractual guarantee obligation in accordance with the administrative clauses of the Contract.

Provisional or final acceptance is carried out by an Acceptance Committee made up of the following:

- Director of Administration, Chairman;
- Director of Internal Audit and Evaluation of Operations;
- Director of Finance and Accounting;
- Director of Legal Affairs;
- Director of Risk Management;
- Director who prescribes/applies for and/or receives funds.

As part of its duties, the Acceptance Committee may call upon any competent resource person to provide its expertise in the review of the deliverables.

Article 132: Final acceptance of services

Final acceptance is declared at the end of the guarantee period. During this period, the contractor is bound by the contractual guarantee obligation. The delivery of supplies and the provision of related services shall be carried out in accordance with the delivery and completion schedule set out in the schedule of quantities and delivery schedules. The schedule of special administrative clauses sets out the details relating to shipment and indicates the other documents and items to be provided by the holder. The final acceptance process is triggered by the PRPP, which invites the Contractor in writing, ahead of time, to participate in the final acceptance. Refraction is also possible at the provisional and final acceptance stages.

Article 133: Evaluation of Contractors' performance

At the end of each fiscal year, the PRPP evaluates the performance of Contractors who have executed a contract valued at US\$ 7000 or more. This evaluation shall take place no later than 31 March of year N+1.

The evaluation shall be based on a performance rating scale of 0 to 5 points with a focus on at least the following criteria:

- Conformity of the deliverables;
- Adherence to deadlines;
- Cost control;
- Business relationships.

The results obtained by each contractor are notified to the PRPP.

At the end of the Contractors' performance evaluation process, Contractors whose performance has been judged unsatisfactory are either provisionally or permanently withdrawn from participation in EBID procurement.

Data relating to the performance of contractors shall be recorded in a database and may be used against the contractors concerned in future evaluations at the discretion of the CA.

Article 134: Satisfaction Surveys

On a three-yearly basis, the CA shall conduct satisfaction surveys with in-house managers and contractors in order to measure the degree of satisfaction of stakeholders and consequently implement a continuous improvement system.

Article 135: Risk approach

In order to ensure the robustness of the system, the PRPP prepares a mapping of the risks applicable to purchases. Thus, operational risk sheets are established with a plan for monitoring their criticality.

Article 136: Payments

Within the framework of these rules, all payments, regardless of the amount or method of acquisition, are made by transfer. To this end, during calls for tenders, the CA shall invite tenderers to communicate to it their viable bank details.

Payments shall be made in accordance with the time limits and conditions laid down in the contract. Any change in the terms of payment must be subject to an amendment.

Payment facilities may be granted to SMEs at their request, but in strict compliance with the principles of transparency and traceability.

On-line payments may also be made, where it is not possible to do otherwise, in particular when purchases are made on specialised e-commerce sites.

Whatever the case, online payments are considered to be payments without consideration and are therefore subject to the prior written approval of the President.

Within the framework of the present regulations, payments for imported equipment are made duty-free, in accordance with the provisions of the headquarters agreement with the Togolese Republic, dated 24 May 1980.

Article 137: Filing and archiving

All procurement files from the expression of needs to closure must be filed digitally in dedicated directories and physically within the set timeframes and for audit purposes. The minimum backup period is at least five (5) years.

Article 138: Liquidation of contracts

The liquidation of markets consists in making the administrative, technical and financial balance sheet of a market in order to clear the synallagmatic commitments. It takes place after the final acceptance and payment of any balance on the initiative of the PRPP. For each financial year, the PRPP proceeds at the latest on 31 March of year N+1 to the closure of all executed contracts whose amount is equal to or higher than 20 000 US dollars.

Article 139: Ethics and Transparency Charter

In addition to the Ethics and Transparency Charter for EBID staff, the CA is in the process of formulating a specific ethics charter for bidders.

This document sets out the ethical rules to be followed by all bidders during the procurement and contract execution process, including the sanctions incurred.

When preparing tender documents, tenderers make a declaration of honour in which they undertake to comply strictly with these regulations.

Article 140: Settlement of disputes and termination

In contracts and order forms, a clause devoted to dispute resolutions between the Parties shall be inserted, on pain of nullity. The same shall apply to calls for tenders where the amount is equal to or greater than US\$10,000. This clause indicates the jurisdiction, the applicable law, including in the event of arbitration, the possible means of seeking redress and the party responsible for the payment of the costs of the procedure.

The terms and conditions of termination, in particular the reasons and deadlines must be systematically subject to a clause as indicated in the paragraph above.



5

PART V:
MISCELLANEOUS,
TRANSITIONAL AND
FINAL PROVISIONS



Article 141: Publication of these Regulations

These regulations are published on EBID's website in English and French as a reference document for institutional purchases.

Article 142: Entry into force

These regulations shall enter into force from the date of their signing and shall repeal any earlier provisions to the contrary.

Done at Lomé on July 1st 2021

Authorised by George Agyekum Donkor PhD, DBA
President and Chairman of the Board of Directors

ANNEXES



LIST OF ANNEXES

Annexe 1: Procedure for analysing price acceptability;

Annexe 2: Model declaration of impartiality and confidentiality;

Annexe 3: Sample General Procurement Notice;

Annexe 4: Model Specific Procurement Notice;

Annexe 5: Sample Procurement Plans.

Annexe 1 :
Procedure for Analysing Price Acceptability



BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES

DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES

GENERAL SERVICES AND ASSETS DIVISION

Procedure for Analysing Price Acceptability

1. Background and Rationale

By definition, a purchase is an act of management that aims to ensure strategic management of public funds, with the main objective of optimising resources based on the principles of economy and prudential management of public resources.

Thus, as part of the overhaul of its procurement system, EBID plans to adopt a new multisectoral procurement policy organised around the following five (5) pillars:

- Cost control ;
- Consolidation of transparency ;
- Mutualisation of purchases;
- Digital transformation of the "purchasing" process;
- Facilitation of the access of regional SMEs to public procurement;
- Quality and risk approaches.

Among these pillars, price reasonableness analysis is a priority.

This procedure is intended to describe the technical itinerary of this protocol.

2. Definition and Objective

The reasonableness of price analysis consists of an in-depth prior and ultimate review by EBID of the prospective bid in an acquisition process. This final review ensures that the offer amount is not unreasonably excessive or low. The price reasonableness analysis is limited to the offer or offers that are technically compliant. The price reasonableness analysis aims to establish a technical-financial balance between the quality of the offer and its amount in relation to the market price, thus avoiding the trap of under-quality. On the one hand, it is a question of ensuring that the Bank's resources are not used for

purchases of items at prices abnormally higher than market prices and also of ensuring that acquisitions are not made at very low prices so as to impinge on the quality of the deliverables.

3. Scope

Price reasonableness analysis is applicable to all purchases of goods, routine services, work and intellectual services regardless of the amount, category or procurement method used.

4. Moment for the design of price reasonableness

4.1. A priori Analysis

The a priori analysis of the reasonableness of the prices is done at the time of the evaluation of the offers/proposals. It is a mandatory step in the bid review process. It is also required in the case of direct agreement or direct purchase.

4.2. Post Analysis

A posteriori analysis of the acceptability of the prices is carried out at the time of payment of the invoices. In this respect, prior to approval, the persons in charge must ensure that the invoice is rigorously accompanied by all documents justifying that the contract was awarded on the basis of acceptable prices. The same applies in the case of expenses incurred on a cash in advance basis. Periodic Audits may also be carried out to verify the optimal implementation of this requirement.

5. Responsibility and documentation

The Director in charge of Administration and General Services is responsible for conducting the analysis of the reasonableness of prices. In case of competitive bidding or direct agreement or direct purchase, this analysis is carried out for the prospective contract recipient during the financial evaluation of the bids/proposals. This should be documented in the procurement file (including the technical evaluation report if applicable) and noted in the company's past performance report.

6. Techniques for analysing price acceptability.

1.1 In case of competitive bidding

Where there is an open or restricted competition, the price reasonableness analysis will consist of calculating the price differential between bids found to be responsive according to the following formula:

With

EP: represents the price difference

Pe: means the bid with the highest amount among the bids deemed to be compliant

Pm: Potential Offer

1.2 Conclusion

If the price difference is less than 50%: The prospective offer is considered commercially reasonable in light of market prices.

However, if it is more than 50% and less than 100%, the offer is considered unacceptable. In this case, the Contracts Commission proceeds as follow:

- Verify that the bidder's offer includes additional functionalities that are particularly advantageous for the CA in terms of robustness, strength, durability, security, profitability in relation to the other competing solutions present. If all these elements are demonstrated and documented, the offer can be considered acceptable. However, the CA reserves the right to index the performance bond at 15% in order to minimize the risk of non-performance.
- If the price differential is greater than 100%, the prospective offer is deemed abnormally low. In this case, the provisions of article xxx of the regulations are applied.

When there is a valid price reference frame, the price of the selected offer must not be higher than the one entered in the price mercurial, except to apply the inflation rate if the acquisition takes place more than one year after the implementation of the price reference frame.

1.3 In case of direct agreement

Where the purchase of goods, supplies, services or intellectual services is made without competition, the CA shall conduct a dual level of verification due to the high risk of non-control of costs due to the lack of competitive pricing.

1.3.1 Justification of Quantities

As a first step, the CA must proceed with a justification of the quantities. It consists in verifying from the available parametric data that the quantities and/or the volume of acquisitions are not excessive.

1.3.2 Reference Price

When there is a valid price reference frame, the price of the successful bid must not be higher than the one entered in the price mercurial, except to apply the inflation rate if the acquisition takes place more than one year after the implementation of the price reference frame.

1.3.3 Historical Prices :

In the case of purchases of similar items already acquired, the CA verifies the recently invoiced prices in its cost accounting figures and are immediately enforceable against the suppliers. However, the rate of inflation may be applied to take account of cost fluctuations.

1.3.4 Published prices

Some commercially traded products such as grain, gasoline, or copper have an international or national price published in the popular press. If the prices offered are the same or lower than these published prices, then it can be assumed that the prices are reasonable.

Annexe 2:
Sample Statement of Impartiality
and Confidentiality for Technical Panel Members



BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES

DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES

GENERAL SERVICES AND ASSETS DIVISION

Sample Declaration of Impartiality and Confidentiality for Technical Panel Members

DECLARATION OF IMPARTIALITY AND CONFIDENTIALITY

Object and Market Reference:

We, the undersigned, declare that we have read the EBID Code of Ethics and Professional Conduct.

Consequently, we undertake to scrupulously respect, in the context of the evaluation and analysis of bids, the moral and professional obligations arising from the said Code.

In particular, we undertake to be impartial and to keep in a secure and confidential manner the information and documents that come to our knowledge in this regard. We understand that in the event of a breach of our obligations of reserve and neutrality, the sanctions applicable to us by the laws in force on the subject are applicable to us.

Surname	First Names	Department	Position	Signature, preceded by indicating, read and approved

Done in Lomé on

Annexe 3:

**Sample of General Procurement
Notices**



BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES
DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES
GENERAL SERVICES AND ASSETS DIVISION

Sample of General Procurement Notices

In accordance with its procurement policy, EBID prepares each year a procurement plan for the acquisition of goods, non-consultant services and intellectual services for the year under review.

Thus, for FY XXX, the procurement program covers the following acquisitions:

Contracting: Estimated Value - [Amount in Dollars]
Procurement of goods in the area of finance, investment projects and general administration areas that include:
* Computer hardware, data transmission systems and software
Inventories (consumables, office and maintenance supplies, cleaning products, etc.)
* Management platforms
* Office furniture and generic office supplies
*Motorcycles
*Other assorted vehicles
*Office equipment, rating and risk analysis agencies
Procurement of works contracts
* Rehabilitation of existing office building structures
* Site configuration and construction of new administrative buildings of various sizes
* Facilities
Demolitions
Project management
Contracting for services (including intellectual services)
* Cleaning and maintenance of the premises, swimming pools, green spaces as well as the building and official residences
* Maintenance of technical installations (air conditioning, plumbing, fire safety equipment, elevators; electricity)
* Thematic trainings
* Insurance policies
* Shipping of mail, freight, removals
* Catering
* Capacity building, skills transfer
Technical Control Office
Design Office
Architect
Consulting Engineer

Date

Place

Signature of the BD

Annexe 4:
Sample of Specific Procurement Notice (SPN)



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ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
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OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES

DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES

GENERAL SERVICES AND ASSETS DIVISION

Sample of Specific Procurement Notice (SPN)

SAMPLE OF SPECIFIC PROCUREMENT NOTICE

Title of the Contract:

Reference to the General Procurement Notice:

Type of Notice: Call for tenders or request for proposal

General Information

Country

City/ Locality:

Notice / Contract number:

Date of Publication:

Deadline and place for submission or transmission of offers/proposals:

Allotment:

Method of Acquisition:

Award Rules:

Type of contract:

Eligibility of bidders:

Advertising modes and channels:

Contact information

Address:

City or town:

Country:

Phone number:

Email

Annexe 5 :
Sample Procurement Plans



BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
 ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
 BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES
 DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES
 GENERAL SERVICES AND ASSETS DIVISION

Sample Procurement Plans

Date of Procurement Plan Approval:
Date of the General Procurement Notice:
Period Covered by this Procurement Plan:

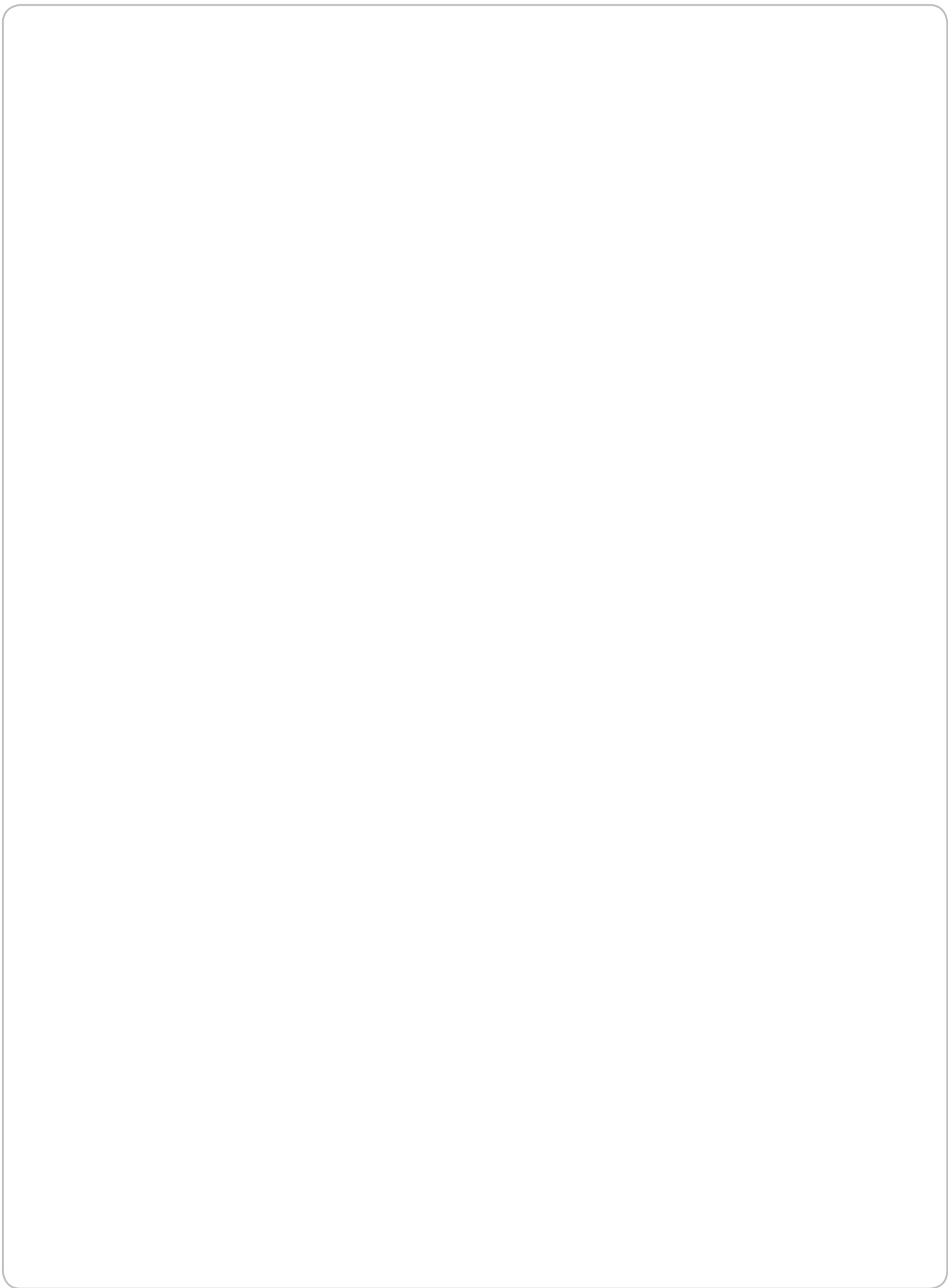
Procurement Plan Template

Supply and Service Contracts

N° ordre	Identifiant	Description des travaux	Structure requérante et/ou bénéficiaire	Nombre de lots	Montant Estimé en FCFA (000)	Mode d'acquisition	Pré-ou Post- Qualification Régionale	Date de lancement de l'appel à concurrence	Type de Commission	Date de signature du contrat	Type de contrat	Observations
Coût total												
0,00												

Captions

DP	Direct Purchase
NEI	Notice of Expression of Interest
AOI	International Invitation to Tender
OC	Ordinary Committee
SC	Special Committee
CD	Competitive Dialogue
DA	Direct Agreement
SBDB	Selection Based on Determined Budget
SICs	Selection of Individual Consultants
SBTQC	Selection Based on Technical Quality and Cost
SBQC	Selection Based on the Quality of Consultant
SBCQ	Selection Based on Consultant's Qualifications
SLC	Selection at Least Cost





BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES
DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES

GENERAL SERVICES AND ASSETS DIVISION
Sample Procurement Plans

Date of Procurement Plan Approval:

Date of the General Procurement Notice:

Period Covered by this Procurement Plan:

Sample Procurement Plan

Year

Works

:

Captions

DP	Direct Purchase
NEI	Notice of Expression of Interest
AOI	International Invitation to Tender
OC	Ordinary Committee
SC	Special Committee
CD	Competitive Dialogue
DA	Direct Agreement
SBDB	Selection Based on Determined Budget
SICs	Selection of Individual Consultants
SBTQC	Selection Based on Technical Quality and Cost
SBQC	Selection Based on the Quality of Consultant
SBCQ	Selection Based on Consultant's Qualifications
SLC	Selection at Least Cost



BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

OFFICE OF THE VICE-PRESIDENT, CORPORATE AND FINANCIAL SERVICES
DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES
GENERAL SERVICES AND ASSETS DIVISION

Sample Procurement Plans

Date of Procurement Plan Approval:

Date of the General Procurement Notice:

Period Covered by this Procurement Plan:

Date of Procurement Plan Approval:

Sample Procurement Plan

Year

Employment of Consultants

N° ordre	Identifiant	Description des travaux	Structure requérante et/ou bénéficiaire	Nombre de lots	Montant Estimé en FCFA (000)	Mode d'acquisition	Avis à manifestation d'intérêt	Participation des experts régionaux	Date de lancement de l'appel à concurrence	Type de Commission	Date de signature du contrat	Type de contrat	Observations
Coût total					0,00								

Captions

DP	Direct Purchase
NEI	Notice of Expression of Interest
IIT	International Invitation to Tender
OC	Ordinary Committee
SC	Special Committee
CD	Competitive Dialogue
DA	Direct Agreement
SBBD	Selection Based on Determined Budget
SICs	Selection of Individual Consultants
SBTQC	Selection Based on Technical Quality and Cost
SBQC	Selection Based on the Quality of Consultant
SBCQs	Selection Based on Consultant's Qualifications
SLC	Selection at Least Cost



BANQUE D'INVESTISSEMENT ET DE DEVELOPPEMENT DE LA CEDEAO
ECOWAS BANK FOR INVESTMENT AND DEVELOPMENT
BANCO DE INVESTIMENTO E DE DESENVOLVIMENTO DA CEDEAO

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DEPARTMENT OF ADMINISTRATION AND GENERAL SERVICES
GENERAL SERVICES AND ASSETS DIVISION

Sample Procurement Plans

Date of Procurement Plan Approval:
Date of the General Procurement Notice:
Period Covered by Procurement Plan:

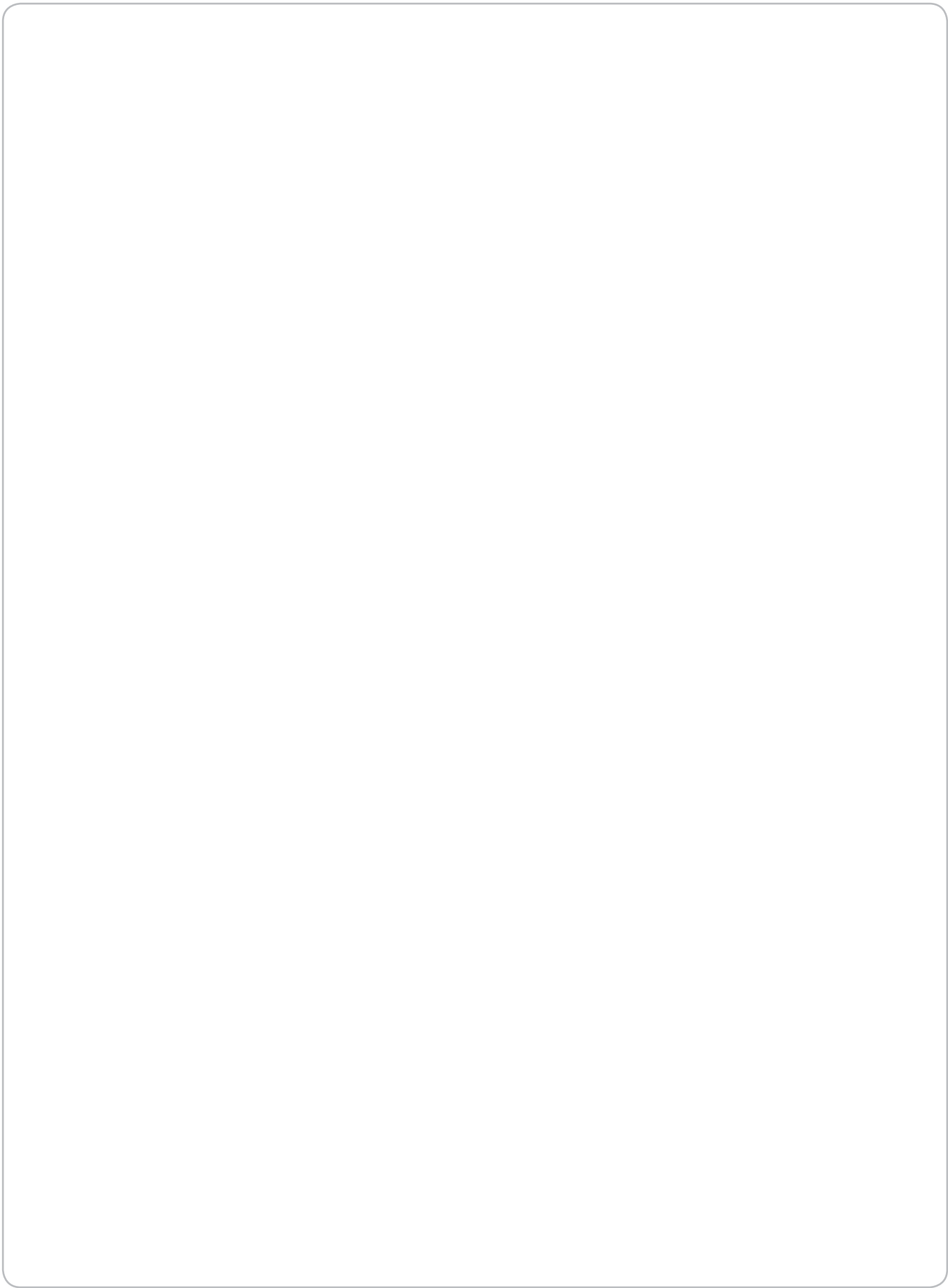
Sample Procurement Plan
Year

Consolidated PP

N° ordre	Identifiant	Description des travaux	Nature de l'acquisition	Structure requérante et/ou bénéficiaire	Nombre de lots	Montant Estimé en FCFA (000)	Mode d'acquisition	Présélection	Participation des experts régionaux	Date de lancement de l'appel à concurrence	Type de Commission	Date de signature du contrat	Type de contrat	Observations
Cofit total						0,00								

Captions

DP	Direct Purchase
NEI	Notice of Expression of Interest
IIT	International Invitation to Tender
OC	Ordinary Committee
SC	Special Committee
DC	Competitive Dialogue
DA	Direct Agreement
SBBD	Selection Based on a Determined Budget
SICs	Selection of Individual Consultants
SBTQC	Selection Based on Technical Quality and Cost
SFQ	Selection Based on the Quality of the Consultant
SBCQ	Selection Based on the Consultant's Qualifications
SLC	Selection at Least Cost





INTERNAL PROCUREMENT
REGULATIONS OF EBID
JUNE 2021