

**REPUBLIC OF KIRIBATI**

**PUBLIC PROCUREMENT REGULATIONS 2026**

*Consolidated text — repeal and re-enactment of the Public Procurement Regulations 2020*

Made by the Minister responsible for Finance under the Public Procurement Act 2019 (as amended)

Commencement: ..... 2026

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## **PART I — GENERAL PRINCIPLES**

### **1. Short title**

These regulations may be cited as Public Procurement Regulations 2026;.

### **2. Scope**

(1).These Regulations provide detailed procedures for Public Procurement programmed, implemented, and managed by the Government of Kiribati as defined in general terms by the Act.

(2).These Regulations apply to Public Procurement of Goods, Services and Works as detailed in the Act.

(3).For the purposes of section 2(3) of the Act, these Regulations bind, and the following are Procuring Entities as listed in Annex II: every State-Owned Enterprise; every statutory corporation and statutory authority; and any other entity funded by Public Funds or controlled by the Government as to 50% or more.

(4).A body to which sub-regulation (3) applies shall conduct all of its Public Procurement in accordance with the Act and these Regulations, except as provided in sub-regulation (5).

(5).A State-Owned Enterprise may apply modified procurement procedures to Public Procurement it undertakes solely for its commercial operations in a competitive market, where: (a) the Chief Procurement Officer has given prior written approval; (b) the modified procedures are set out in, or approved under, the Manual; and (c) the principles in section 4 of the Act, and the requirements of these Regulations as to record-keeping, conflict of interest, fraud and corruption, debarment, and the publication of award data, continue to apply.

(6).The Minister may, by notice published on the Public Procurement Web Portal, add a body to, or remove a body from, Annex II.

### **3. Exceptions**

(1). The following shall not be subject to application of the procedures of the Public Procurement Act and Regulations:

- a) Public employment contracts (excluding the engagement of consultants);
- b) Projects financed by International Donors, where money and financial assets are not part of Kiribati Public Funds;
- c) Procurement subject to international treaties;
- d) Bilateral agreements between the Government of Kiribati and foreign public entities or authorities;
- e) Gifts, donations, and any form of unconditional grants, including international training, medical expenses from foreign health care systems or tuition fees from foreign universities, with which the Government of Kiribati has signed a Memorandum of Understanding;
- f) Purchase of Goods, Services or Works outside of Kiribati for use outside of Kiribati;
- g) Financial investments, loans and guarantees;

- h) Regulatory fees, permits or other public or mandatory fees;
- i) Purchasing or renting of land or existing buildings or other immovable property, exclusive of refurbishment works or new construction works; and
- j) Travel expenses that are regulated in the Travel Policy of the Government of Kiribati.

(2). Despite the fact that they are not subject to application of the procedures, procurement under sub-regulation 3(1) is still to respect the Principles of Public Procurement defined in section 4 of the Act unless clearly unsuitable.

#### **4. Definitions**

Act; means the Public Procurement Act 2019;.

Annual Procurement Plan; means an itemised schedule showing the approved allocation of Public Funds for Procuring Entities; needs for procuring Goods, Services or Works.

Application for Pre-Qualification; means a response to a Pre-Qualification Procedure where the Economic Operator expresses its interest to take part in Public Procurement by providing evidence of eligibility.

Central Procurement Unit; means the unit established according to section 14 of the Act.

Chief Procurement Officer; means the Secretary responsible for Finance.

Consultant; means any legal or natural person providing Consulting Services.

Consulting Services; means Services that are typically of an intellectual and advisory nature.

Contract; means an agreement of economic interest concluded in writing between an Economic Operator and a Procuring Entity having as its object the obligation to supply Goods, provide Services or execute Works.

Contractor; means an Economic Operator awarded a Works Contract.

Delegation of Authority; means the definition of responsibilities, actions and communication aspects involving all public officers participating in Public Procurement.

Design and Build; means a Public Procurement, and the resulting Contract, under which a single Economic Operator is responsible for both the design and the execution of Works, on the basis of the Procuring Entity's output, functional or performance requirements;

Economic Operator; means any natural or legal person, which offers supply of Goods, provision of Services or execution of Works.

Electronic Procurement Portal; means the designated electronic system or platform mandated by the Chief Procurement Officer for the conduct of any or all stages of the Public Procurement cycle.

electronic transferable record; means a record in electronic form that satisfies the requirements of the Electronic Transactions Act 2021 and is subject to a reliable method of control.

Environmental Licence;, Environmentally-Significant Activity;, Environmental Impact Assessment; and Environment Management Plan; each has the meaning given in the Environment Act 2021 and the Environment (General) Regulations 2025.

Evaluation Committee; means a committee responsible for evaluation of Tenders submitted by Tenderers.

Evaluation Report; means the report detailing the result of the evaluation of Tenders received as part of Public Procurement.

Extremely critical situation; means a situation caused by a sudden natural or human disaster that may impact the normal functioning of the community and requiring an emergency intervention.

Extremely urgent situation; means a situation caused by unforeseeable events requiring immediate action.

Framework Agreement; means an agreement executed between one or more Procuring Entities and one or more Economic Operators establishing the terms and conditions governing Suborders to be awarded during an agreed period of time.

Goods; means tangible items, including assets and expendable items that are purchased, hired, leased, or rented and related services, provided that the value of the Goods is higher than the value of the Services.

In Writing; or Written; means any expression consisting of words and/or figures that can be read, reproduced, and subsequently communicated. It may include information transmitted and stored by electronic means.

Invitation to Tender; means a procedure according to which a Procuring Entity invites Economic Operators to take part in Public Procurement.

Life-Cycle Costing; means the methodology for assessing the total cost of ownership of Goods, Works or Services over their whole life, including the costs of acquisition, operation, maintenance, and end-of-life disposal and recycling and, where relevant, the cost of environmental externalities.

Model Documents; means a set of standard template documents issued by the Chief Procurement Officer and of standard Contract templates issued by the Office of Attorney General and included in the Manual for use in Public Procurement.

Pre-qualification; means the procedure detailed in section 22 of the Act to identify, prior to an Invitation to Tender, Economic Operators that are qualified to provide certain Goods, Services, and/or Works.

Procurement Complaints Board; means the permanent authority established by section 19 of the Act responsible for appeals of High Value Procurement and Contract or Framework Agreement award decisions.

Procurement Officer; means a public officer in the Central Procurement Unit.

Procuring Entity; means any governmental department, agency, organ or their unit, or any subdivision or multiplicity thereof that is funded by Public Funds or government controlled by 50% or more, as designated by Annex II of the Regulations, that engages in Public Procurement.

Procuring Entity Procuring Officer; means a public officer in a Procuring Entity Procuring Office responsible for Public Procurement.

Procuring Office; means a dedicated office within each Procuring Entity responsible for Public Procurement.

Public Funds; means public money or public financial assets deriving from the state budget or from International Donors; funding already approved, being subject of a bilateral agreement with GoK, and available for the Government or under the control of the Procuring Entity.

Public Procurement; means the acquisition of Goods, Services or Works utilising Public Funds.

Public Procurement Manual; or Manual; means guidelines and advice, issued by the Chief Procurement Officer pursuant to the Regulations, providing practical instructions to efficiently and effectively execute Public Procurement.

Purchase Order; means a simple contract used for Low Value Procurement transactions of Goods, Services or Works.

Regulations; means the Public Procurement Amendment Regulations 2026;, issued pursuant to section 11 of the Act.

Request for Information; means a non-committing market assessment used to determine a realistic budget estimate and to develop Specifications and Terms of Reference.

Request for Offer; means the documents used for a simplified Invitation to Tender for Low Value Procurement used by Procuring Entities.

Request for Pre-Qualification; means the documents used for an invitation for Economic Operators to prequalify to provide specified Goods, Services or Works.

Request for Proposal; means the documents used for an Invitation to Tender to invite Economic Operators to submit a proposal for a solution to fulfil requirements defined by the Procuring Entity for Goods, Services or Works, as specified in the Manual.

Request for Quotation; means the documents used for an Invitation to Tender to invite Economic Operators to submit a quotation for standard Goods, Services or Works, as specified in the Manual.

Senior Procurement Officer; means the officer appointed in accordance with Section 99 of the Constitution and as further detailed in Section 15 of the Procurement Amendment Act 2021.

Service Provider; means an Economic Operator that is awarded a Service Contract.

Services; means the object of Public Procurement other than Goods and Works and include both Consulting Services and other services, that are contracted based on performance of measurable outputs.

Social Considerations; means, but is not limited to, environmental protection, energy and water efficiency, climate change, gender equality, workers conditions, child labour, accessibility for persons with disabilities, social inclusion of indigenous people and reduction of unemployment.

Specification; means a technical description of the requirements for Goods, Works, or Services other than Consulting Services.

State-Owned Enterprise or SOE; means a company incorporated under the Companies Ordinance (Cap. 10A) in which all, or the majority, of the shares are held by or on behalf of the

Government, and includes a State-Owned Enterprise listed in Schedule 1 to the State-Owned Enterprises Act 2013.

Statutory Authority; means a body established by or under an Act to perform public functions and that is owned or controlled by the national or a sub-national government.

Statutory Corporation; means a company, corporation or other body, with or without shareholders, that is owned or controlled by the national or a sub-national government.

Suborder; means a Contract between a Procuring Entity and an Economic Operator under a Framework Agreement.

Supplier; means an Economic Operator awarded a Contract or Framework Agreement for the supply of Goods.

Sustainable Public Procurement; means Public Procurement that, consistently with Value for Money, gives effect to section 4(1)(h) of the Act and to the Social Considerations of the people of Kiribati.

Tender; means a technical and a financial offer prepared in response to an Invitation to Tender by a Procuring Entity.

Tenderer; means an Economic Operator that has submitted a Tender in response to an Invitation to Tender by a Procuring Entity.

Terms of Reference; means a technical description of the requirements for Consulting Services.

Value for Money; means the optimum combination of whole life cycle costs and quality.

Value for Money Evaluation; means the procedure where the technical and financial parts of the Tenders are aggregated to determine the Tender that provides the best Value for Money.

Works; means the construction, repair, rehabilitation, demolition, restoration, maintenance of civil work structures, and related services.

## **5. Value for Money**

(1). Procuring Entities shall always ensure Value for Money under a risk-managed approach to comply with the overarching scope of Public Procurement by implementing the rules, methods and principles defined by the Act, the Regulations, and the Manual. Public Procurement shall always consider Value for Money, which shall be achieved through the effective, efficient and economic use of resources and the evaluation of relevant costs and benefits, along with an assessment of risks and life-cycle costs, such as fitness for purpose, experience and performance history of a Tenderer, flexibility (including innovation and adaptability over the lifecycle of Public Procurement), environmental sustainability (such as energy efficiency and environmental impact), maintenance and service. Value for Money can be obtained either by applying technical scoring criteria above mandatory technical criteria (i.e. best price-quality ratio) or without additional scoring criteria in cases where mandatory technical criteria sufficiently fulfil the needs of the Procuring Entity (i.e. the lowest price).

(2). Procuring Entities shall not limit Public Procurement evaluations to the price for acquisitions but shall also consider all other possible costs that may refer to warranties time and scope, service and maintenance, operational costs, disposal (recycling, deposit, demolition,

dismounting, destruction, etc.), delivery time and terms of payment, technology transfer, counter-trade, local content of manufacture, labour, and material, etc.

(3) The award criteria shall be precise, non-discriminatory, proportional, and competitive. The Procuring Entity shall specify the award criteria in the Invitation to Tender as the relative weighting of each of the technical criteria chosen as well as the relation between the technical and financial components.

(4) Pursuant to the definition of Value for Money in the Act and to section 10B, Procuring Entities are authorised to apply Life-Cycle Costing and total cost of ownership in the evaluation of Tenders, including the costs of acquisition, operation, maintenance, disposal and recycling and, where relevant, the cost of environmental externalities, as further detailed in the Manual.

## **6. Electronic procurement**

(1) Pursuant to section 10A of the Act, the Chief Procurement Officer may mandate the use of a designated Electronic Procurement Portal for any or all stages of the Public Procurement cycle, and for such categories, value bands or Procuring Entities as the Chief Procurement Officer may specify, so that electronic procurement may be introduced in phases.

(2) The Portal shall provide for the security and confidentiality of submissions before opening, the protection and retention of supplier data consistently with the Data Protection Act 2025, and the conduct of Public Procurement through the Portal.

(3) Where these Regulations or the Manual require a step to be done in physical form, that requirement is satisfied by performing it through the Portal, in accordance with section 10A(4) of the Act.

(4) Electronic communications, signatures, contracts and records used through the Portal have legal effect in accordance with the Electronic Transactions Act, including as to writing (section 10), the formation and validity of contracts (section 17), electronic signatures (Part 4) and electronic transferable records (Part 5).

## **7. Data protection and security of the Electronic Procurement Portal**

(1) The Central Procurement Unit, as controller, shall ensure that personal data processed through the Electronic Procurement Portal are processed in accordance with the Data Protection Act, including the principles of purpose limitation, minimisation and retention (section 10), security, integrity and confidentiality (section 18), and the notification of personal data breaches (sections 19 and 20).

(2) Where the Portal is operated or hosted by a service provider, the Central Procurement Unit shall enter into a written data-processing agreement with that provider, as required by section 14 of the Data Protection Act, requiring the provider to process supplier personal data only on the Unit's documented instructions, to maintain confidentiality and security, and to notify the Unit of any personal data breach without undue delay.

(3) Where personal data are processed or stored outside Kiribati, the Central Procurement Unit shall ensure that the conditions for transfer in sections 23 and 24 of the Data Protection Act 2025 are met.

(4) The Central Procurement Unit shall maintain technical and organisational security controls for the Portal; and unauthorised access to, interception of, or interference with the Portal or its data may constitute an offence under sections 7 to 10 of the Cybercrime Act 2021.

### **Division 3 — Procurement planning**

#### **8. Currency and payment**

- (1). The official currency for all Public Procurement shall be the Australian Dollar (AUD).
- (2). In exceptional circumstances, upon prior approval of the Chief Procurement Officer, Procuring Entities may adopt a different currency or more than one currency for Public Procurements. Procuring Entities shall clearly justify the reason for adopting a currency different from, or in addition to, AUD.
- (3). Procuring Entities shall always specify the currency adopted for Public Procurement in the Invitation to Tender.

#### **9. Eligibility**

- (1). Procuring Entities shall comply with the principle provided in the Act that no Tenderer can be excluded from Public Procurement based on its nationality or the place where its business is registered, subject to the domestic preference and any domestic limitation permitted under section 7 of the Act and Regulation 10.
- (2). Procuring Entities shall exclude from Public Procurement, Economic Operators that are ineligible to participate in Tenders that are ineligible to participate, whether by reason of a ground set out in Regulation 51, a debarment under Regulation 79, or a sanction list of ineligible and debarred Economic Operators.

#### **10. Domestic preference**

- (1). Procuring Entities may consider giving preference to the domestic market to privilege the use of domestic resources, promote domestic economic growth, and strengthen the domestic market economy.
- (2). For Low Value Procurement, Procuring Entities may limit Public Procurement to domestic Economic Operators.
- (3). For Medium and High Value Procurement, Procuring Entities may privilege Domestic Economic Operators or international Economic Operators using domestic resources to promote economic growth and to strengthen domestic market economy. Procuring Entities may privilege Domestic Economic Operators or international Economic Operators, with specific scoring criteria, that promote business cooperation with Domestic Economic Operators or the use of domestic human and technical resources.
- (4). Procuring Entities shall specify in the Request for Pre-Qualification and/or Invitation to Tender the reasons for a domestic preference. In case of domestic Economic Operators being privileged, Procuring Entities shall also specify in the Request for Pre-Qualification and Invitation to Tenders the preference scoring criteria and the methodology for evaluation of domestic Economic Operators or International Tenderers using domestic resources.

(5).Procuring Entities shall obtain a pre-approval of the domestic limitation or preference by the Chief Procurement Officer before initiating Medium or High Value Public Procurement.

(6).Procuring Entities shall refer to the Manual for the selection of suitable methods concerning the implementation of the principles of this Regulation.

### **11. Delegation of Authority**

The procurement value thresholds that determine the category of Public Procurement, and the thresholds applicable to particular procurement methods and approvals, are set out in the Schedule of Thresholds in Annex I; and the Minister may, on the advice of the Chief Procurement Officer, adjust the threshold values by notice published on the Public Procurement Web Portal.

## **Division 6 — Records and transparency**

### **12. Access to information and records**

(1) The Central Procurement Unit shall publish, through the Public Procurement Web Portal or other electronic means and at least quarterly, information on Contracts awarded, including for each the Procuring Entity, the procurement method, the name of the successful Economic Operator and the Contract value, including Contracts awarded by a Single Source procedure.

(2) The Senior Procurement Officer, through the Central Procurement Unit, shall prepare an annual report on Public Procurement summarising performance and any recommendations; the report shall be submitted to the Minister responsible for Finance, provided to the Kiribati Audit Office, and published, in the form and within the time detailed in the Manual.

(3) Procurement information shall be made available to the public to the extent consistent with the confidentiality provisions of these Regulations and the Data Protection Act 2025.

(4) Procuring Entities shall retain a complete record of each Public Procurement, including the justification, approvals, evaluation and award, for at least 6 years from the conclusion of the fiscal year in which the Contract was completed, or the period required by the Government of Kiribati Finance Regulations, whichever is longer; and such records shall be made available to the Kiribati Audit Office and, on request, to a financier, in accordance with sections 9 and 13 of the Act.

### **13. Publication of Public Procurement information**

(1).For the purpose of Regulations 28, 30, 42, 56, 58 and 60, the Chief Procurement Officer shall be responsible for disseminating all available Public Procurement information and documentation respectively to Economic Operators and the general public by publication on the Public Procurement Web Portal or by any other means, in accordance with the principles of transparency and confidentiality. The Chief Procurement Officer shall also be responsible for updating and upgrading the Public Procurement Web Portal to ensure effectiveness of the communication and reliability and safety of the information.

(2).Should the Public Procurement Web Portal not be available, functional, or effective, the Chief Procurement Officer shall disseminate all Public Procurement information and documentation by publication in local and international media, through national radio broadcasting and any other appropriate means.

(3).For the purposes of Regulations 32 and 33, the Chief Procurement Officer shall submit the Request for Pre-Qualification and the Invitation to Tender by electronic communications or, if these are not available, functional or effective, by letter.

#### **14. Confidentiality of information**

(1).Upon request of any interested party to obtain information concerning the Public Procurement, Procuring Entities shall decide on the confidentiality of the requested information.

(2).Procuring Entities may present requirements to Economic Operators aimed at protecting the confidential nature of information, which the Procuring Entities make available throughout Public Procurement.

(3).Procuring Entities shall decide that information is confidential when they judge that its release could compromise the Public Procurement or Tenderers; commercial or trade secrets.

### **PART II — INSTITUTIONAL FRAMEWORK AND RESPONSIBILITIES**

#### **15. Minister of Finance and Economic Development**

(1) The Minister responsible for Finance and Economic Development is responsible for the policy and legal framework for public procurement and may make Regulations under section 11 of the Act to give effect to the Act.

(2) The Minister —

- a) sets and adjusts the procurement value and method thresholds in the Schedule of Thresholds in Annex I, by notice published on the Public Procurement Web Portal;
- b) approves and issues the Sustainable Public Procurement Policy and any other national procurement policy provided for in these Regulations;
- c) receives the annual report on Public Procurement and the periodic reports on the use of Single Source procedures; and
- d) exercises the other powers conferred on the Minister by the Act and these Regulations.

#### **16. Central Procurement Unit**

(1) The Central Procurement Unit, established under section 14 of the Act, is the body responsible for the regulatory and normative functions of the public procurement system; it does not itself conduct the procurement of Procuring Entities, and its functions are distinct from those of the Procurement Complaints Board.

(2) The Central Procurement Unit is headed by the Chief Procurement Officer (the Secretary responsible for Finance, under section 14A of the Act), who exercises oversight, regulation and the approvals conferred by the Act and these Regulations and issues the Public Procurement Manual, standard documents and guidance; and its operational work is led by the Senior Procurement Officer (under section 15 of the Act). For the segregation of duties, the oversight and approval functions of the Chief Procurement Officer are exercised separately from the operational functions led by the Senior Procurement Officer.

(3) The functions of the Central Procurement Unit are to —

- a) develop and maintain the Public Procurement Manual, standard bidding and contract documents and guidance, and advise Procuring Entities;
- b) coordinate joint and aggregated procurement and Framework Agreements under Regulation 68, and support Procuring Entities, particularly those with limited capacity or in remote and outer islands;
- c) operate and administer the Electronic Procurement Portal and maintain the procurement records, statistics and data of the system;
- d) monitor compliance with the Act, these Regulations and the Manual, and report to the Minister, including the publication of award data and the annual report under Regulation 12;
- e) deliver or arrange capacity-building and professionalisation for procurement officers; and
- f) maintain a record of debarred and suspended Economic Operators in accordance with Regulation 79.

#### **17. Procuring Entity**

(1) The Head of the Procuring Entity, as defined in the Act, is accountable for all Public Procurement of the Procuring Entity and shall —

- a) approve the Annual Procurement Plan;
- b) establish the Procuring Office, appoint the Procuring Officer and appoint the Evaluation Committee;
- c) ensure compliance with the Act, these Regulations and the Manual, the segregation of duties, and the achievement of Value for Money and integrity; and
- d) authorise Contract awards within the Delegation of Authority.

(2) Each Procuring Entity shall establish a Procuring Office and appoint at least one Procuring Officer, who initiates and conducts the Public Procurement of the Procuring Entity with the support and supervision of the Central Procurement Unit.

(3) No later than the signature of a Contract, the Procuring Entity shall appoint a project manager and a contract manager, with the functions set out in Regulations 62 and 63.

(4) Accordingly, the Head of the Procuring Entity is accountable for and approves the Procuring Entity's Public Procurement, while the Procuring Office and the Procuring Officer carry out its day-to-day conduct.

#### **18. Central Contract Award Board**

(1) The Central Contract Award Board, established under section 17 of the Act, reviews and decides the award of Contracts for High Value Procurement and gives the approvals required of it by these Regulations, including the approval of a Single Source procedure under Regulation 33.

(2) The membership of the Board is as set out in section 17 of the Act, and its quorum is a majority of its members.

(3) In discharging its functions the Board shall —

- a) consider the Evaluation Report and decide the award on the basis of the best Value for Money in accordance with these Regulations;
- b) satisfy itself that the Public Procurement has complied with the Act, these Regulations and the Manual; and
- c) record its decision and the reasons for it.

(4) A member of the Board who has a Conflict of Interest in a matter shall declare it and take no part in the Board's decision on that matter; and a member of the Evaluation Committee for a Public Procurement shall not take part in the Board's decision on that Public Procurement.

(5) The proceedings and secretariat of the Board are as further detailed in the Manual; the time within which the Board shall decide is provided in Regulation 59.

### **19. Contract Award Committee**

(1) A Contract Award Committee, established in each Procuring Entity under section 18 of the Act, reviews and decides the award of Contracts for Medium Value Procurement.

(2) The membership of the Committee is as set out in section 18 of the Act, and its quorum is a majority of its members.

(3) In discharging its functions the Committee shall —

- a) consider the Evaluation Report and decide the award on the basis of the best Value for Money;
- b) satisfy itself that the Public Procurement has complied with the Act, these Regulations and the Manual; and
- c) record its decision and the reasons for it.

(4) A member who has a Conflict of Interest in a matter shall declare it and take no part in the Committee's decision; and a member of the Evaluation Committee for a Public Procurement shall not take part in the Committee's decision on that Public Procurement.

(5) The proceedings and secretariat of the Committee are as further detailed in the Manual; the time within which the Committee shall decide is provided in Regulation 59.

### **20. Evaluation Committee**

(1) An Evaluation Committee is appointed by the Head of the Procuring Entity for each Public Procurement requiring one, in accordance with section 32 of the Act, and shall have appropriate technical, financial and procurement expertise.

(2) The Evaluation Committee shall —

- a) evaluate Tenders objectively against the administrative, exclusion, qualification and Value for Money criteria;
- b) prepare an Evaluation Report recording the evaluation and its recommendation; and
- c) submit the Evaluation Report, signed by all its members, to the awarding authority, being the Central Contract Award Board or the Contract Award Committee as the case may be.

(3) A member of the Evaluation Committee who has a Conflict of Interest shall declare it and take no part in the matter, and shall not take part in the award decision on that Public Procurement.

(4) The composition and procedure of the Evaluation Committee are as further detailed in Regulation 57 and the Manual.

## **21. Procurement Complaints Board**

(1) The Procurement Complaints Board, established under section 19 of the Act, is the independent body that reviews and determines complaints by Tenderers concerning Public Procurement and Contract award decisions.

(2) The Board shall act independently, impartially and without direction from any Procuring Entity, and a member who has a Conflict of Interest shall take no part in the matter.

(3) The responsibilities of the Board are to —

- a) receive and determine complaints;
- b) where a complaint is made within the standstill period, suspend the award of the Contract until the complaint is determined, unless the Board decides for recorded reasons that an urgent public interest justifies continuation; and
- c) grant proportionate remedies.

(4) The composition, procedure, timelines and remedies of the Board are set out in Part XI (Regulation 75).

## **PART III — PROCUREMENT PLANNING**

### **22. Annual Procurement Planning**

(1). Procuring Entities shall prepare an annual Public Procurement forecast for each Medium and High Value Procurement of Goods, Services and Works needed for the upcoming fiscal year, in line with the templates provided by the Central Procurement Unit.

(2). The forecast shall include at the minimum the following information:

- a) Responsible Procuring Entity;
- b) A brief description of the Goods, Services and Works needed;
- c) Cost estimates;
- d) In case of Goods, the number of items;
- e) Time schedules;
- f) Identification of the source of funding; and
- g) An indication of opportunities to improve sustainability and procurement efficiency, including aggregation, domestic preferences, Framework Agreements and Sustainable Public Procurement criteria.

(3). For Low Value Procurement, a lump-sum forecast of expected needs shall be provided.

(4). Annual Public Procurement forecasts shall be submitted to the Central Procurement Unit as an integrated part of the budget planning procedure and in advance of a new fiscal year, as per the guidance contained in the Manual.

(5).The Central Procurement Unit shall consolidate all the Procuring Entities; Public Procurement forecasts and, following budget approval, create and publish an Annual Procurement Plan. The Annual Procurement Plan may be revised during the quarterly budget review.

(6).Procurement shall not be initiated before the full budget for the Goods, Services and/or Works in question has been approved and included in the Annual Procurement Plan. In the absence of a designated budget allocation, Public Procurement may exceptionally be initiated, subject to a written approval by the National Economic Planning Office within the Ministry responsible for Finance, and notification to the Chief Procurement Officer.

(7) In planning under Part IIA of the Act, Procuring Entities shall screen all forecasted requirements for sustainability impacts and for whether the requirement is an Environmentally-Significant Activity requiring an Environmental Licence, Environmental Impact Assessment or Environment Management Plan under the Environment (General) Regulations 2025, and shall provide for the time needed to obtain them, as further detailed in the Manual.

(8) Where an Electronic Procurement Portal is in operation, it shall be configured, giving effect to section 19B(5) of the Act, to prevent a Procuring Entity from publishing or executing any Invitation to Tender, Request for Quotation or Request for Offer unless the procurement is linked to an approved Annual Procurement Plan that satisfies the applicable sustainability parameters.

(9) When developing the annual Public Procurement forecast, Procuring Entities shall assess and document the opportunities identified in planning under Regulation 23 — including to aggregate requirements, to use or establish Framework Agreements for common-use items, and to apply Sustainable Public Procurement criteria and Life-Cycle Costing — and shall identify opportunities to apply domestic preference under Regulation 10 or to divide a requirement into lots to facilitate the participation of local micro, small and medium-sized enterprises, provided that such division is undertaken genuinely to facilitate the participation of local micro, small and medium-sized enterprises, is recorded with reasons, and is not made for the purpose of, or with the effect of, avoiding the thresholds for open competitive procurement (section 19C of the Act).

### **23. Procurement planning**

(1) In planning its Public Procurement under Part IIA of the Act, and proportionate to the value, risk and complexity of the requirement, each Procuring Entity shall —

- a) carry out a needs assessment that defines the outcome to be achieved and the whole-life requirement, including any sustainability needs, avoids over-specification, and considers whether the need is better met by aggregation or a Framework Agreement than by an individual procurement;
- b) undertake market scoping to assess the availability, capacity and sustainable options of the supply market, including, where appropriate, by a Request for Information or other early market engagement conducted without distorting competition or conferring an unfair advantage on any Economic Operator, consistently with section 37A of the Act; and

- c) select a procurement method that is fit for purpose and proportionate to the value, risk, complexity and market capacity of the requirement, in accordance with section 20 of the Act, and record the reasons for the choice.

(2) In assessing options and setting the budget, the Procuring Entity shall estimate and compare the whole-life cost of the requirement, applying Life-Cycle Costing in accordance with Regulations 5 and 54 and the methodology in the Manual, rather than the acquisition price alone.

(3) Sustainability and the Social Considerations of the people of Kiribati shall be taken into account at each step of planning and shall inform the needs assessment, the specifications and the choice of method, including gender equality and social inclusion consistently with any applicable gender policy, in accordance with the Sustainable Public Procurement Policy and as further detailed in the Manual.

(4) The outcome of planning under this regulation shall inform the Procuring Entity's annual Public Procurement forecast under Regulation 22 and the Annual Procurement Plan.

#### **24. Environmental Licence and environmental assessment for Works**

(1) Where a Public Procurement of Works is an Environmentally-Significant Activity, the Procuring Entity shall, at the specification stage, set requirements consistent with the Environmental Licence, any required Environmental Impact Assessment and the Environment Management Plan under the Environment (General) Regulations 2025.

(2) The works shall not commence under the Contract until the Environmental Licence has been granted; and the obligation to obtain the Environmental Licence shall be placed on the Procuring Entity or, where appropriate, on the Contractor as a condition of the Contract.

### **PART IV — PROCUREMENT METHODS**

#### **25. Application**

(1).For the purposes of these Regulations, Medium and High Value Procurement shall be applied with reference to specific value thresholds as determined in the Delegation of Authority.

(2).A Procuring Entity shall not split a Contract into smaller procurements where this has the effect of qualifying it as Low-Value Procurement or otherwise avoiding the principles, rules and obligations of this Part.

#### **26. Initiation of Public Procurement**

(1).Procuring Entities shall prepare Tender documents based on Model Documents, in compliance with the Act, the Regulations and the Manual.

(2).Specifications and Terms of Reference shall clearly and completely describe the needs of the Procuring Entity. They shall be non-discriminatory, proportional, and relevant and may be expressed as technical, performance, functional, output or outcome requirements, as further detailed in the Manual.

(3).Procuring Entities shall ensure that evaluation criteria, as defined in Regulation 49, are established and approved by the Chief Procurement Officer before commencing Public Procurement.

(4).The criteria shall be clear, reflecting and not going beyond the scope of the Specification or the Terms of Reference, for the purpose of assessing that Tenderers have sufficient financial, economic, technical, and professional capacity to implement the tasks required under the Contract or Framework Agreement and that the Tenders will be evaluated on criteria providing the best Value for Money.

(5).The Procuring Entity shall define in the Invitation to Tender the relevant evidence to be provided by Tenderers to demonstrate fulfilment of each criterion.

(6).An Evaluation Committee shall be established prior to the publication or submission of an Invitation to Tender, as detailed in Regulation 57.

## **27. Choice of procedure**

(1) Open competitive tendering is the default method for Public Procurement and shall be used unless the conditions for another method in these Regulations are satisfied.

(2) A Procuring Entity shall select the method appropriate to the value, nature and complexity of the requirement, in accordance with the Schedule of Thresholds in Annex I, and shall record the reasons for the method chosen. The available methods are —

- a) competitive methods — open competitive tendering (Regulation 28); Two-Stage Tendering (Regulation 29); and the Limited competitive procedure (Regulation 32);
- b) the Single Source procedure (Regulation 33), with repeat orders and community participation and subject to the thresholds and reporting in that regulation; negotiated procurement after failed Tenders (Regulation 34); and emergency and disaster procurement (Regulation 35);
- c) special arrangements — Framework Agreements (Regulation 67); joint and aggregated procurement coordinated by the Central Procurement Unit (Regulation 68); and procurement through agents, other agencies and international organisations (Regulation 36); and
- d) for Consulting Services, the selection methods in Regulation 72.

(3) The solicitation document for a competitive method — an Invitation to Tender, a Request for Quotations (Regulation 39) or a Request for Proposals (Regulation 40) — is chosen in accordance with Regulation 38.

(4) A Procuring Entity may use a Limited competitive procedure where the conditions in Regulation 32 are met. For procurement at or above the threshold prescribed in the Schedule of Thresholds, the prior written approval of the Chief Procurement Officer is required; below that threshold, the Procuring Entity shall record a written justification.

## ***Division 1 — Standard procedures***

### **28. Open competitive procedure**

(1).Before initiating Public Procurement, Procuring Entities shall prepare an Invitation to Tender.

(2).The Invitation to Tender shall be made available to Economic Operators, in line with Regulation 13, to enhance market competition, and to the public.

(3).The Invitation to Tender shall be subject to approval by the Chief Procurement Officer and shall consist of at least the following information and documents, as further defined in the Manual:

- a) Invitation; has the purpose to inform about a need for purchase of Goods, Services or Works;
- b) Instructions on the submission; is the information for Economic Operators concerning the minimum required contents of Tenders such as the deadline and methodology for submission, the minimum validity time of Tenders, the number of copies to be submitted;
- c) Certificate of Compliance form; is the declaration of compliance with mandatory requirements;
- d) Time schedule; provides the indication of the timeline of the whole procurement procedure and includes the deadline for Tender submission, the possible deadline for the Procuring Entities to receive questions, the possible date, timing, and place for Tender opening sessions, etc;
- e) Specifications or Terms of Reference; provide the description of the necessary technical requirements of the object of the Public Procurement, which can be respectively Goods, Services or Works;
- f) Evaluation Criteria and Method; is the Model Document that describes the evaluation model and Tenderers shall use, to specify their financial and technical proposal for the Goods, Services or Works for evaluation;
- g) Draft contract is the draft version of the Contract general and the specific terms and conditions between the successful Tenderer and the Procuring Entity.

## **29. Two-Stage Tendering**

(1) With the prior written approval of the Chief Procurement Officer, a Procuring Entity may use Two-Stage Tendering where —

- a) it is not feasible to define the technical specifications fully at the outset;
- b) the procurement involves an innovative design or solution or a complex purchase, including major information and communications technology or sophisticated goods, services or works; or
- c) the Procuring Entity seeks proposals on how best to meet its requirements before finalising the specifications.

(2) In the first stage, the Procuring Entity invites initial Tenders on the basis of functional, performance, output or outcome requirements, without a Tender price or with only indicative prices, and may hold discussions with Tenderers to clarify and refine the requirements and the technical solution.

(3) In the second stage, the Procuring Entity issues the final specifications and award criteria and invites the qualifying Tenderers to submit final Tenders, including prices.

(4) The Procuring Entity shall treat Tenderers equally, maintain the confidentiality of each Tenderer's proposal and not disclose one Tenderer's proposed solution to another without consent; and the Contract shall be awarded on the basis of the best Value for Money, as further detailed in the Manual.

### **30. Pre-Qualification**

(1).Procuring Entities may decide to launch a Pre-Qualification to select potential Tenderers with sufficient capability for the Goods, Services or Works to be Tendered, thereby limiting the potential number of Tenderers to be invited. A request for Pre-Qualification shall consist of at least the following information and documents and be published on the Public Procurement Web Portal:

- a) Invitation; the document with the purpose of informing about a future need for procurement of Goods, Services or Works;
- b) Instructions for the Pre-Qualification application; the document providing the required information to be submitted by Economic Operators, which includes the respective deadlines and methodology for submission and provides the list of the Exclusion and qualification criteria for the eligibility to receive the Invitation to Tender; and
- c) The intended timeline for an Invitation to Tender.

(2).The Request for Pre-Qualification shall be subject to approval by the Chief Procurement Officer before issuance.

### **31. Design and Build**

(1) A Procuring Entity may procure Works together with their design as a single Design and Build Public Procurement and Contract, where combining design and construction offers better Value for Money or suits the complexity or innovation of the project.

(2) For a Design and Build procurement the Procuring Entity shall define its requirements as output, functional or performance requirements; Tenders shall be evaluated on the best Value for Money, applying technical (design) and financial criteria and, where appropriate, the two-step procedure under Regulation 49(5) and Life-Cycle Costing under Regulations 5 and 54; and Two-Stage Tendering under Regulation 29 may be used where the specifications cannot be fully defined in advance.

(3) Design and Build procurement shall use the Design and Build Model Document and shall be conducted as further detailed in the Manual.

## ***Division 2 — Exceptional procedures***

### **32. Limited competitive procedure**

(1).Public Procurement may be addressed directly to a preselected list of Economic Operators.

(2).Procuring Entities shall be responsible for preparing a list of preselected Economic Operators in accordance with their respective fields of operation and sectors of competence and graded for their performance. The lists received from Procuring Entities shall be compiled by the Central Procurement Unit and saved in a Public Procurement database.

(3). Besides inviting preselected Economic Operators, Procuring Entities shall also invite a minimum number of new and non-graded Economic Operators, if available, that are not part of the preselected list and not included in the Public Procurement database, thus not yet rated with performance indicators, as per the first paragraph of this Regulation, and as described in the Manual. The Invitation to Tenders shall be addressed to the identified Economic Operators in line with the principles established by Regulation 28.

(4). Procuring Entities may apply Limited competitive procedures only after having received written approval from the Chief Procurement Officer.

### **33. Single Source procedure**

(1). In case a Procuring Entity considers addressing a request for Goods, Services or Works only to one Economic Operator without competition, for Medium and High Value Procurement, it shall request for an advance written authorisation from the Chief Procurement Officer, by providing evidence of the existence of conditions for the use of a Single Source procedure.

(2). Before awarding a Single-Source Procurement Contract, an approval must be obtained from the Central Contract Award Board or Contract Award Committee, whichever is relevant.

(3). Single Source Public Procurement may be used only in the following circumstances:

- a) where competition is absent and no reasonable alternative exists, for one of the following reasons:
  - (i) the protection of exclusive rights, including patents, copyrights or other intellectual property;
  - (ii) technical reasons, where only one Economic Operator possesses the unique expertise, technology or equipment required; or
  - (iii) the procurement of a unique work of art or artistic performance;
- b) extremely urgent situations that relate to a serious risk of an event that may endanger human safety and/or natural integrity of people and preservation of environment and properties and that requires a rapid response from the public authorities to mitigate such risk. For the purposes of this disposition, Procuring Entities shall not invoke the adoption of a Single Source procedure if the urgency of Public Procurement is attributable to poor planning;
- c) extremely critical situations that relate to a sudden natural or human disaster that may impact the normal functioning of the community, in accordance with the principles of the *Disaster Risk Management and Climate Change Act 2019* that requires immediate action. For the purposes of this disposition, the Disaster Controller, as defined in the *Disaster Risk Management and Climate Change Act 2019*, is authorised to approve the purchase. However, an ex-post authorisation in accordance with Regulation 33(1), with retroactive effect, is required;
- d) the protection of national security, where the Public Procurement concerns the defence of Kiribati, policing or border control, or critical national infrastructure, and cannot be conducted competitively without disclosing information that would harm national security; provided that reliance on this ground is limited to

the part of the requirement for which confidentiality is strictly necessary, requires the prior written approval of the Minister responsible and the Attorney-General in addition to the approvals under sub-regulations (1) and (2), and shall not be invoked on grounds of political sensitivity, administrative convenience or poor planning ;

- e) Additional deliveries by the original Supplier, Service Provider, Consultant or Contractor, which are intended either as a partial replacement or as an extension of an existing Contract or Framework Agreement for Supplies, Services or Works where a change of Supplier, Service Provider, Consultant or Contractor would oblige the Procuring Entity to acquire additional Supplies, Services or Works having different technical characteristics, which would result in incompatibility or disproportionate technical difficulties in operation and maintenance or unreasonable additional costs; or
- f) For Public Procurement made under exceptionally advantageous conditions that arise only in the very short term, such as from unusual disposals, liquidation, bankruptcy, or receivership, and which are not routine Public Procurement from regular Suppliers;
- g) where an open competitive procedure has failed because no Tenders were received or no Tender was responsive or compliant, and negotiated procurement under Regulation 34 is not available because only one capable Economic Operator exists, provided that the original specifications and terms are not substantially modified and the Procuring Entity demonstrates that re-tendering is unlikely to yield a more competitive result.

(4) Repeat order. A Procuring Entity may place a repeat order with the Economic Operator that holds a Contract awarded by a competitive method, within twelve months of that Contract, on the same terms and at the same or better prices, provided that the cumulative value of repeat orders does not exceed [50]% of the original Contract value.

(5) Community participation. Where the objective is to achieve social value, local employment or community ownership in the delivery of small Works or Services, a Procuring Entity may engage the beneficiary community or a community-based organisation directly, subject to the value limits and safeguards in the Manual.

(6). A Procuring Entity using a Single Source procedure shall demonstrate in its written justification that Value for Money is achieved, including by verifying the reasonableness of the price or negotiating it, and shall retain the justification on the file for audit and review; and the Chief Procurement Officer shall report to the Minister, at least every six months, on the use of Single Source procedures, including the grounds relied on and the value of each Contract, and shall publish single-source awards, in accordance with sections 13 and 24(3) of the Act and Regulation 15.

### **34. Negotiated procurement after failed Tenders**

Where an open competitive procedure has failed because no Tenders were received, no Tender was responsive or compliant, or the procurement was cancelled for lack of effective competition, the Procuring Entity may, with the prior written approval of the Chief Procurement

Officer and where it determines that re-advertising is unlikely to yield a more competitive result, procure by negotiation with two or more capable Economic Operators; before doing so it shall review and, where appropriate, revise the requirements, specifications and budget; the negotiated terms shall be no less advantageous to the Procuring Entity than those last advertised; and the reasons and outcome shall be recorded on the file and the award published in accordance with Regulation 13.

### **35. Emergency and disaster procurement**

(1) In an extremely urgent or extremely critical situation, including under the Disaster Risk Management and Climate Change Act 2019, a Procuring Entity may procure by the most expeditious means necessary to address the situation.

(2) Emergency procurement shall be limited to what is strictly necessary and to a defined period; where prior approval is not feasible, an ex-post ratification shall be obtained as soon as practicable; and the procurement shall be recorded with a written justification and reported to the Office of the Attorney General and the Kiribati Audit Office, as further detailed in the Manual.

### **36. Remote, outer-island and Island Council procurement**

(1) A Procuring Entity procuring for the Line and Phoenix Islands or other remote or outer islands may, as further detailed in the Manual —

- a) allow bidding periods longer than the minimums in Regulation 43, having regard to distance and connectivity;
- b) permit direct international shipping or sourcing where this offers better Value for Money or timeliness; and
- c) Apply community participation and local-content arrangements consistent with the principles of the Act and Regulation 10.

(2) Public Procurement by an Island Council of a value exceeding AUD [10,000] is subject to the Act and these Regulations, with the support of the Central Procurement Unit. The Local Government Financial Instructions shall be applied consistently with the Act and these Regulations, in the case of conflict, the requirement that affords greater transparency and competition prevails.

### **37. Procurement through agents, other agencies, international organisations and highly technical consultants**

(1) With the approval of the Chief Procurement Officer, a Procuring Entity may conduct a Public Procurement through —

- a) a procurement agent, being another government agency or a procurement agency engaged to carry out the procurement on its behalf;
- b) another government agency by an agency-to-agency arrangement, where that agency has the mandate, capacity and systems to undertake the procurement; or
- c) a public international organisation or another government, including a United Nations agency, where this offers better Value for Money, speed or access to specialised expertise.

(2) Where a procurement agent or agency acts on behalf of the Procuring Entity, a written agreement shall define the scope, responsibilities, fees and accountability, and the Procuring Entity shall remain responsible for the funds and the final award.

(3) For the engagement of an individual highly technical, specialised or urgently required consultant, the Chief Procurement Officer may approve a simplified or negotiated selection on a recorded justification, provided that the consultant;s qualifications and the reasonableness of the fee are verified, as further detailed in the Manual.

## **PART V — THE PROCUREMENT PROCEDURE**

### ***Division 1 — Solicitation documents***

#### **38. Choice of solicitation approach**

Procuring Entities shall choose the most efficient and effective solicitation approach for launching Requests for Pre-Qualification and Invitations to Tender, in accordance with the complexity and value of the Contract as specified in the Manual. The solicitation approach for an Invitation to Tender shall be chosen according to the nature of the requirement —

- a) a Request for Quotations (Regulation 39), to invite quotations for standard or readily-available Goods, Services or Works, awarded for Value for Money (ordinarily on price, but taking account of life-cycle cost and sustainability factors where the request so provides), up to the Request for Quotations threshold in Annex I; or
- b) a Request for Proposals (Regulation 40), to invite proposals for a solution where the technical approach, methodology or quality is decisive and the award is made on the best overall Value for Money, including for the selection of Consulting Services (Regulation 72).

#### **39. Request for Quotations**

(1) A Procuring Entity may use a Request for Quotations for readily available Goods, simple Works or simple Services that are not specially produced to the Procuring Entity;s requirements, where the value does not exceed the Request for Quotations threshold in Annex I.

(2) The Procuring Entity shall request written quotations, on the basis of a clear description of the requirement, from as many Economic Operators as practicable and not fewer than three.

(3) The Contract shall be awarded to the quotation offering the best Value for Money; for standard or readily-available items this is ordinarily the lowest-priced compliant quotation, but the request may provide for life-cycle cost and other objective non-price factors, including sustainability factors, to be taken into account; and the procedure shall otherwise be as detailed in the Manual.

#### **40. Request for Proposals**

(1) A Procuring Entity may use a Request for Proposals where the technical approach, methodology, quality or expertise offered is decisive and price alone is not a sufficient basis for award, including for advisory, design or other complex Services other than Consulting Services selected under Regulation 72.

(2) Proposals shall be evaluated against published criteria combining technical merit and price, or technical merit within a fixed budget, and the Contract awarded to the proposal offering the best overall Value for Money, which need not be the lowest-priced.

(3) The Request for Proposals may provide for clarification or, where the tender documents so state, negotiation of the proposed terms before award; and the procedure shall otherwise be as detailed in the Manual.

## ***Division 2 — Conduct of the procedure***

### **41. Securities and guarantees**

(1) To reduce risk exposure in the Tendering process and Contract execution, the Procuring Entities shall utilize suitable and proportional securities and guarantees, as prescribed in the Manual. The requirement for any security shall balance risk mitigation against the objective of maximizing competition, particularly for local Small and Medium Enterprises (SMEs).

(2) Except as otherwise provided in Regulation 61 or prescribed in the Manual, an advance payment security shall be required for all advance payments. For the purpose of promoting market participation by local Small and Medium Enterprises (SMEs), the Central Procurement Unit may establish financial thresholds or specific contract categories where the requirement for an advance payment security may be waived, subject to the alternative risk-mitigation measures prescribed in the Manual.

(3) For the purpose of promoting market participation by local Small and Medium Enterprises (SMEs) and startup businesses, the Manual may establish financial thresholds or specific contract categories where the requirement for an advance payment security may be waived, subject to alternative risk-mitigation measures specified therein.

(3) As an alternative to a financial bid security, Procuring Entities may authorize or require the use of a Bid-Securing Declaration, under which bidders commit to sign the contract if selected or face automatic suspension from future public procurement for a period specified in the Manual. The Manual shall define the financial thresholds or contract types where a Bid-Securing Declaration is the default requirement.

(4) Procuring Entities are authorised to accept bid securities, performance securities and other financial guarantees in the form of electronic transferable records or electronic data messages under Part 5 (section 27) of the Electronic Transactions Act 2021. Such records are legally equivalent to physical instruments provided the issuing institution employs a reliable method of control that identifies the Central Procurement Unit as the party in exclusive control of the record.

### **42. Questions and answers procedure**

(1) Procuring Entities shall establish a deadline for Economic Operators to submit written questions and/or requests for clarifications on the subject of Public Procurement and the received documentation. The deadline for submission of questions and clarifications and the timeframe for expected answers shall allow sufficient time for Economic Operators to revise and submit Tenders according to the timeframe set in the Invitation to Tender.

(2).Procuring Entities shall be responsible for providing clarifications to the Central Procurement Unit, who shall issue answers to the questions on the Public Procurement Web Portal, in line with Regulation 13, or, in cases of Limited Competitive Procedures, directly to the invited Economic Operators.

(3).Procuring Entities shall respect the principles of equal treatment, transparency and equal opportunity and shall not provide a prior opinion on the eligibility of a Tenderer or on any proposal of specific activities that may be tendered. They shall make available to all Economic Operators a written response containing all non-confidential answers and clarifications, without disclosing the source of any request.

(4).Procuring Entities shall update the contents of the Specifications or Terms of Reference in line with the conclusion of the question and answer procedure.

(5) Where the Procuring Entity issues a material clarification or an amendment to the Invitation to Tender that may affect the preparation of Tenders within the final 7 calendar days before the deadline for submission, the deadline shall be automatically extended by at least 7 calendar days from the date the clarification or amendment is issued, so that all Tenderers have adequate time to take the new information into account; and the extension shall be published in accordance with Regulation 13.

#### **43. Deadline for submitting Tenders**

(1).The deadline for submission of Tenders or Applications shall be long enough to allow for high-quality submissions.

(2). Procuring Entities shall apply the following minimum deadlines:

- a) 15 calendar days for Request for Pre-Qualifications;
- b) 30 calendar days for Request for Proposals;
- c) 14 calendar days for Request for Quotations; and
- d) 10 calendar days for Request for Offers.

(2A) For High-Value Procurement that is advertised internationally, the Procuring Entity shall allow a minimum of 30 calendar days and should allow longer periods commensurate with the complexity of the procurement and international good practice.

(3).A deadline defined as above in an Invitation to Tender or in a Request for Pre-Qualification should not be extended after the Invitation to Tender has been published, unless absolutely necessary and clearly justified. If required, it shall be communicated as soon as possible, well before the original deadline for submission.

(4).The Chief Procurement Officer may, upon a written and justified request, approve a reduction of the deadlines for submission of Tenders. The justification for the reduction shall be recorded in writing on the file of the Public Procurement in question. A deadline shall not be reduced below 10 calendar days, and the criteria for approving a reduction shall be as further detailed in the Manual.

#### **44. Receipt and registration of Tenders**

(1).The Central Procurement Unit shall determine whether Tenders are received in compliance with the instructions provided in the Invitation to Tender. Tenders received after the set deadline shall be automatically excluded from further consideration.

(2).The Central Procurement Unit shall record the time and date for the Tenders received within the set deadline and shall provide a written confirmation to the Tenderers. Tenders shall remain encrypted and inaccessible until the opening of the Tenders, in accordance with Regulation 45.

(3) Where the Act, these Regulations or the Manual require submission of Tenders in a sealed envelope or physical containment to preserve confidentiality, that requirement is fulfilled by the submission of electronic data into a secure, encrypted digital vault within the designated Electronic Procurement Portal. The use of systemic controls that prevent any access to Tender data prior to the designated deadline is deemed the functional equivalent of a physical seal.

#### **45. Opening of Tenders**

(1).The Central Procurement Unit shall be responsible for the opening of Tenders in line with the instructions specified in the Invitation to Tender and as soon as possible after the final deadline for submission. Following the opening, the Central Procurement Unit shall transmit all valid and complete Tenders that arrived before the deadline to the Evaluation Committee.

(2).A public opening session shall take place for all Public Procurement under Open Procedures, including Pre-Qualification, and Limited procedures. The Invitation to Tender shall specify date, timing and place where the opening session will take place. All Tenderers or their representatives shall be permitted to observe the opening session, or, where Tenders are submitted through the Electronic Procurement Portal, the requirements for a public opening session and the physical presence of Tenderers shall be satisfied in accordance with sub-regulation (5).

(3).In specific circumstances, the Chief Procurement Officer may waive the rule of public opening of Tenders by providing a written justification, except where Tenders are opened automatically through the Electronic Procurement Portal in accordance with sub-regulation (5), in which case no written justification is required.

(4).The Evaluation Committee shall record the presence of Tenderers and register the procedure of Tenders opening in the Evaluation Report, including the name of each Tenderer whose Tender is opened.

(5) Where Tenders are submitted through the Electronic Procurement Portal, the requirement for a public opening session, including the physical presence of Tenderers or their representatives, is satisfied if the Portal automatically and simultaneously decrypts the submitted Tenders at the specified deadline and generates and distributes a system-generated opening summary to all participating Tenderers. The opening summary replaces the manually recorded register of attendance.

#### **46. Non-valid Tenders**

If no Tender was received on or before the latest time and date for submission, or if the received Tenders were incomplete or for other reasons not valid, the Procuring Entity shall investigate the reasons.

#### **47. Rejection of Tenders**

(1).Upon approval of the Chief Procurement Officer, a Procuring Entity may reject all Tenders when there is evidence of a lack of effective competition or where Tenders are substantially non-responsive, non-compliant or substantially exceeding the available budget. If all Tenders are rejected, the Procuring Entity shall review the causes, justify the rejection, and consider revising the Invitation to Tender, before relaunching a new Public Procurement.

(2).If the rejection of all Tenders is due to lack of effective competition, the Procuring Entity should consider a wider advertising of the Invitation to Tender.

(3).A Procuring Entity shall not reject all Tenders for the sole purpose of obtaining lower prices.

#### **48. One Tender per Tenderer**

(1).Economic Operators shall not be allowed to submit more than one Tender per each Public Procurement, either individually, in consortia or in similar cooperation. Procuring Entities shall disqualify Tenderers that have submitted more than one Tender for the same Public Procurement.

(2).Sub-regulation (1) does not prevent an Economic Operator from acting as a sub-contractor in more than one Tender.

(3) Where the tender documents expressly so provide, a Tenderer may submit, in addition to a Tender that complies with the requirements, one alternative Tender offering a different solution. The tender documents shall state the minimum requirements that an alternative Tender must meet and the basis on which alternative Tenders will be evaluated. Alternative Tenders may be invited in particular to encourage more sustainable, innovative or whole-life-cost-effective solutions.

### ***Division 3 — Evaluation***

#### **49. Evaluation procedure**

(1).The Evaluation Committee shall be responsible to carry out the evaluation procedures, which shall be based on the following criteria:

- a) Tenderer requirements
- b) Administrative criteria define the capacity of the Tenderers, including that they have a proper Business Registration, to comply with the requirements defined in the Invitation to Tender or the Request for Pre-Qualification in a complete and effective way and within the set timeframes;
- c) Exclusion criteria refer to those situations that could pose a threat to the economic interest of the Government of Kiribati and are, or may constitute, ground for exclusion of Tenderers from Public Procurement. Economic Operators that are listed in the UN Sanctions list or sanctioned by any Donor shall be excluded. Exclusion criteria relate to committed criminal activities and unfulfilled mandatory obligations, for which an automatic exclusion is compulsory; and they relate to insufficient financial capacities and negative commercial behaviours of Economic Operators, for which an exclusion is possible;

- d) Minimum criteria include the minimum requirements that Tenderers must fulfil to qualify for the evaluation procedure;
- e) Tender requirements
- f) Mandatory technical criteria for evaluation of Tenders, as specified in the Specifications or Terms of Reference; and
- g) Evaluation criteria which include the technical and financial criteria that determine the best Value for Money, leading to award of Contracts, and in particular:
- h) Technical criteria for evaluation;
- i) Scoring value for each technical criterion in relation to its importance, unless the definition of minimum technical criteria, as under d) above, is sufficient;
- j) Financial components, including where applicable price, operational and Life Cycle costs, disposal, training, maintenance, spare parts, warranties, etc.; and
- k) Where necessary, the relation between the technical and the financial criteria, including whether technical and financial proposals require separate submissions; alternatively, the lowest price, when only minimum technical criteria are defined.

(2).In case Public Procurement foresees separate submissions of technical and financial proposals, the financial proposals shall remain sealed or, where submitted electronically, cryptographically secured and inaccessible, until the technical evaluation is completed.

(3).The allocation of the final score shall represent the merging of technical scores and financial data and shall be a decision by consensus of the Evaluation Committee, as per Regulation 54, and shall be submitted to the awarding authority for review and for issuing the award decision, as per Regulation 58.

(4).The Evaluation Committee may also take into consideration the performance scoring of Economic Operators, in line with Regulation 63.

(5) A Procuring Entity may apply a two-step evaluation procedure whereby Tenders are first assessed against minimum technical criteria and only the financial proposals of Tenderers meeting those criteria are subsequently evaluated. The relative weighting of the technical and financial components shall be determined by the Procuring Entity according to the nature of the procurement, as further detailed in the Manual.

#### **50. Evaluation of administrative criteria**

The Evaluation Committee shall reject all Tenders that are not in compliance with the instructions provided in the Invitation to Tender and shall note it in the Evaluation Report. If non-compliant, missing, or incomplete information is of minor or insignificant character, the Evaluation Committee may request this information to be provided by the Tenderer within a reasonable period of time, as further detailed in the Manual.

#### **51. Exclusion criteria**

(1).The Evaluation Committee shall exclude a Tenderer from participating in Public Procurement when it is verified, or the Evaluation Committee is otherwise aware, that the Tenderer is in any of the following situations:

- a) Subject of a criminal conviction, that may include a member of its management, by final judgment for (i) participation in a criminal organisation; (ii) corruption; (iii) fraud; (iv) terrorist offences or offences linked to terroristic activities; (v) money laundering or terrorist financing; (vi) child labour and other forms of trafficking in human beings; or any other violation of International Conventions of which the Government of Kiribati is a signatory party;
- b) Subject to a judicial or administrative decision, with final and binding effect, concerning the breach of its obligations on the payment of taxes or social security contributions;
- c) Subject to a conflict-of-interest situation or in any other condition that prevents the impartiality of the process; or
- d) In any other circumstance as established in the Invitation to Tender.

(2).A written decision of the exclusion shall be provided to the Tenderer and shall be recorded it in the evaluation report.

(3).The Evaluation Committee may request a Tenderer to provide within a reasonable time further information and documentation to ascertain the existence of an exclusion criteria and to be able to decide on the Tender eligibility.

## **52. Evaluation of eligibility criteria**

The Procuring Entity may define eligibility criteria in the Invitation to Tender or Pre-Qualification, such as technical or financial capacity or proof of previous experience, necessary to be able to execute a Contract, as further detailed in the Manual. Only Tenderers that fulfil such criteria will be evaluated or invited to submit Tenders.

## **53. Technical Evaluation criteria**

(1).The Procuring Entity may define minimum technical criteria which the Tender must fulfil. Such mandatory criteria must be fulfilled for the Tender to be further evaluated, as below, or, in case of these criteria being the sole technical criteria, i.e. when the lowest price of the compliant Tenders is the selection criteria.

(2).Tenders that are eligible to be evaluated based on technical criteria, as defined in the Invitation to Tender, shall thereafter be evaluated by the Evaluation Committee.

(3).The Evaluation Committee may request a Tenderer to provide within a reasonable time further information and documentation to ascertain whether minimum criteria are respected.

## **54. Value for Money evaluation**

(1).The Evaluation Committee shall be responsible for the Value for Money evaluation, which is done by aggregating the technical and the financial evaluation results of the Tenders, alternatively the lowest price, in accordance with the financial principles and methods identified in the Invitation to Tender, and for the decision on the Contract or Framework Agreement award. The Evaluation Committee shall record in the Evaluation Report all aspects of the evaluation.

(2).The Evaluation Committee may request a Tenderer to provide within a reasonable time further information or clarification to be able to complete the Value for Money evaluation.

(3).The allocation of the final score shall represent the merging of technical scores and financial data and shall be a decision by consensus of the Evaluation Committee and submitted to the awarding authority, as regulated in Regulation 49. The awarding authority shall inform the Evaluation Committee and the Procuring Entity on the outcome of the award decision.

#### **55. Abnormally low Tenders**

(1) Where a Tender appears abnormally low in relation to the Goods, Services or Works such that the Procuring Entity has reasonable doubt about the Tenderer;s ability to perform the Contract at the Tender price, the Evaluation Committee may examine the Tender.

(2) Before rejecting the Tender on this ground, the Evaluation Committee shall request the Tenderer in writing to explain the price or cost — which may relate to the economics of the method, the technical solution, exceptionally favourable conditions available to the Tenderer, or compliance with applicable labour, environmental and social obligations — and shall consider the explanation.

(3) The Tender may be rejected only where the explanation does not satisfactorily account for the low price or cost, and the reasons shall be recorded; the method for identifying and assessing an abnormally low Tender shall be as further detailed in the Manual.

#### ***Division 4 — Cancellation***

#### **56. Cancellation of the procurement**

(1).A Procuring Entity may cancel the Public Procurement at any stage prior to Contract or Framework Agreement award under the following or similar circumstances:

- a) Public Procurement needs have ceased to exist or have changed substantially;
- b) Budget has been cancelled; or
- c) There is a reasonable suspicion of collusion, corruption, or other foul play in the Public Procurement.

(2).If a Procuring Entity decides to cancel an initiated Public Procurement the decision shall be subject to approval in accordance with the Delegation of Authority and the Chief Procurement Officer shall publish a notice, in line with Regulation 13.

### **PART VI — THE EVALUATION COMMITTEE**

#### **57. The Evaluation Committee**

(1).Tenders shall be evaluated by an Evaluation Committee which shall be responsible for the assessment of the evaluation criteria, in line with Regulation 49.

(2).Procuring Entities shall select and appoint the members of the Evaluation Committee and shall ensure that all members of the Evaluation Committee comply with the principles established under section 4 of the Act and that in case of a conflict of interest they are removed from the committee and excluded from the Public Procurement exercise in question.

(3).The Evaluation Committee shall comprise a scoring chairperson, at least two scoring evaluators for Medium Value Procurement and at least three scoring evaluators for High Value Procurement, a non-scoring secretary and, if necessary, substitutes. The evaluators must

possess the technical, financial, and/or administrative capacity necessary to give an informed opinion on the Tenders. Their scores shall have equal value and the final score shall be a decision by consensus, in line with Regulation 49.

(4).The Evaluation Committee may invite non-scoring technical and/or financial advisors to provide a reasoned opinion to support technical and, if necessary, financial evaluation.

(5).The chairperson is responsible for coordinating the evaluation procedure and for ensuring its impartiality, correctness, and transparency. The scoring members of the Evaluation Committee have collective responsibility for decisions taken by the committee. The secretary to the Evaluation Committee is responsible for carrying out all administrative tasks connected with the evaluation procedure.

(6).Prior to the commencement of the evaluation, all members of the Evaluation Committee accepting the appointment shall sign a declaration of impartiality and confidentiality and shall declare to act in accordance with the principles of the Act and the Regulations.

(7).The Secretary of the Evaluation Committee shall, upon advice of the Chairperson, prepare and submit the Evaluation Report recording all aspects of the evaluation, including the preparation, timing and contents of meetings, members; presence, exclusions of Tenders for failing to meet the mandatory criteria, the technical and the financial evaluation procedures, the scores and reasons for the scorings, and any other relevant information. Consistently with section 33 of the Act, the Evaluation Report shall be signed by all members of the Evaluation Committee before the Secretary submits it, on behalf of the Committee,, together with the scores and a recommendation for award, to the relevant awarding authority.

## **PART VII — CONTRACTS AND CONTRACT MANAGEMENT**

### **58. Awarding authorities**

(1).The Contract Award Committee and the Central Contract Award Board, established in accordance with the Act, shall be the awarding authorities responsible for reviewing the evaluation process and for issuing the decision on the Contract or Framework Agreement award.

(2).All members of the Contract Award Committee and of the Central Contract Award Board shall be responsible for reviewing the evaluation process and for taking the Contract or Framework Agreement award decision, which shall be reached by consensus.

(3).In case of disagreement between the members of the Contract Award Committee or the Central Contract Award Board on the award decision or on the review of the evaluation process, the final award decision or the review shall be accompanied by a written clarification on the matter of disagreement.

(4).In case of absence of one or more of the members of the Contract Award Committee or of the Central Contract Award Board, one or more substitutes shall be appointed to guarantee the minimum necessary composition of the awarding authority.

(5).Upon finalisation of the award decision, the awarding authority shall provide the Procuring Entity with the Contract or Framework Agreement award decision, the evaluation report and all other relevant documentation and information.

#### **59. Contract or Framework Agreement award**

(1).The awarding authority shall notify the successful Tenderer of the Contract or Framework Agreement award decision and, at the same time, shall inform the unsuccessful Tenderers of the outcome of the evaluation. In the information to unsuccessful Tenderers, the awarding authority shall indicate the name of the successful Tenderer, the allocation of the final score and other relevant information.

(2).During a timeframe of 10 calendar days following the notification of the Contract or Framework Agreement award decision issued by the awarding authority, in the event that a complaint or an appeal is filed by a Tenderer, the Procuring Entity shall not sign the Contract or Framework Agreement until a decision is issued by the Procuring Entity, the Chief Procurement Officer or the Procurement Complaints Board, as applicable.

(3).In case a unsuccessful Tenderer claims that the reason provided in the Contract or Framework Agreement award decision notification for the non-selection of their Tenders is not sufficiently clear, the Procuring Entity may decide, if the request is considered reasonable, to provide further information or a debriefing session. An unsuccessful Tenderer is entitled, on written request made within the standstill period, to a debriefing explaining the reasons its Tender was unsuccessful, without disclosing confidential information of any other Tenderer.

(4).The awarding authority shall also inform the Evaluation Committee on the outcome of the award decision.

#### **60. Contract or Framework Agreement signature**

(1).Following the expiration of a standstill period the Procuring Entity shall without delay submit the Contract or Framework Agreement documents to the awarded Tenderer for its signature. The Contract or Framework Agreement documents shall comprise the Draft Contract, the final version of the Specifications or Terms of Reference, in line with Regulation 42, the technical and financial offer of the Tenderer, and any other information relevant to the Contract.

(2).Unless in exceptional circumstances, the Procuring Entity shall ensure that the Contract or Framework Agreement is signed by the Tenderer before signing it.

(3).Upon successful completion of the Contract or Framework Agreement signing, information that the Contract or Framework Agreement has been signed shall be published, in line with Regulation 13.

(4) Before a Contract or Framework Agreement for Medium Value Procurement is signed, the successful Tenderer shall provide to the Procuring Entity a written declaration, in the form required by the Manual, identifying its beneficial owners — being the natural persons who ultimately own or control the Tenderer, including any natural person who holds [25]% or more of its shares or voting rights or who otherwise exercises ultimate effective control — and the Central Procurement Unit shall retain the declaration.

(5) Before a Contract or Framework Agreement for High Value Procurement is signed —

- a) the successful Tenderer shall disclose its beneficial owners under sub-regulation (5);
- b) the Procuring Entity shall verify the disclosure against the conflict-of-interest declaration made under regulation 76 and shall record, and refer to the Chief Procurement Officer, any material discrepancy;
- c) the Contract or Framework Agreement shall not be signed until the disclosure has been made and found to be complete; and
- d) the Central Procurement Unit shall retain the disclosed information, may publish it to the extent permitted by the Data Protection Act 2025, and shall make it available for audit and integrity purposes.

#### **61. Advance payments**

Advance payments shall be approved in accordance with the Delegation of Authority. Advance payments shall not exceed 20% of the Contract value and shall be secured a bank guarantee or equivalent, in form and substance acceptable to the Procuring Entity, shall be obtained, unless waived by the Chief Procurement Officer, following endorsement of the Accountant General of the Ministry responsible for Finance.

#### **62. Project management**

Procuring Entities shall appoint a Project Manager to continuously monitor the compliance and performance of Suppliers, Service Providers, Consultants or Contractors against the terms and conditions of the Contract.

#### **63. Contract management**

(1).Procuring Entities shall appoint a Contract Manager who shall be responsible for all contractual matters of the Contract, including change management and amendments and for ensuring that appropriate approvals, in accordance with the Delegation of Authority, are obtained in relation to the Contract. All changes to a Contract shall be documented in a written amendment to the Contract.

(2).Contract Managers shall operate in close cooperation with Project Managers and shall ensure that all necessary monitoring procedures are in place.

(3).Upon conclusion of the Contract, the Contract Manager shall inform the Central Procurement Unit on the performance of Suppliers, Service Providers, Consultants and Contractors to update the information on Economic Operators with the relative performance scoring and any other relevant information.

(4).Procuring Entities shall ensure that Contract Managers undergo relevant training and capacity building to ascertain and increase their operational functionality and expertise.

(5) Where relevant to the subject matter of the Contract, Procuring Entities shall include enforceable sustainability and environmental performance clauses in the special conditions of Contracts, specifying measurable performance metrics such as waste-disposal protocols, emissions limits and energy-efficiency requirements; and, where the Public Procurement is an Environmentally-Significant Activity, shall require compliance with the conditions of the

Environmental Licence and the approved Environment Management Plan throughout the Contract, in accordance with the Environment (General) Regulations 2025.

(6) Such clauses may provide for contractual remedies, including liquidated damages, financial penalties or termination; and the Contract shall record that unauthorised environmental degradation or unlawful waste disposal may constitute an offence under regulation 42 of the Environment (General) Regulations 2025 and sections 93, 98, 114 and 115(3) of the Environment Act 2021. The person designated to manage the Contract under section 35 of the Act shall monitor compliance, as further detailed in the Manual.

(7) Contracts for the supply of imported Goods shall specify the delivery terms and point of delivery, allocate the risk of loss or damage in transit, and provide for a firm price inclusive of freight and shipping or, where applicable, a transparent price-adjustment mechanism; and the General Conditions of Contract in the Manual shall prohibit any freight, shipping or other surcharge not provided for in the Contract.

(8) A variation, or cumulative variations, exceeding 15% of the original Contract value requires the approval of the awarding authority and shall not be used to avoid a separate Public Procurement; where cumulative variations would exceed 25% of the original value, a new Public Procurement shall be undertaken, except where a Single Source ground under Regulation 33 applies.

## **PART VIII — FRAMEWORK AGREEMENTS**

### **64. Identification of needs**

For commonly procured Goods, Services or Works, the Chief Procurement Officer may decide to launch Public Procurement for the conclusion of a Framework Agreement.

### **65. Single Framework Agreement**

If a Framework Agreement is concluded with one Economic Operator for a specified type of Goods, Services or Works, the Procuring Entity shall submit a Suborder for every new procurement to be delivered within the scope, terms and conditions specified in the Framework Agreement, without the requirement for a separate tendering procedure.

### **66. Multiple Framework Agreement**

When a Framework Agreement is concluded with more than one Economic Operator for a specified type of Goods, Services or Works, a new simplified competition between the parties of the Framework Agreement shall take place to identify the Economic Operator offering the best Value for Money, within the terms and conditions defined in the Framework Agreement for each Suborder.

### **67. Duration of the Framework Agreement**

(1) Procuring Entities may use a Framework Agreement for recurring, high-frequency or common requirements, and shall not conclude a Framework Agreement for a period exceeding three years, including any options for extension, except that the Chief Procurement Officer may approve a Framework Agreement of up to five years.

(2) A Framework Agreement may provide for index-linked or otherwise adjustable pricing, provided the methodology for price adjustment is objective, transparent and specified in the Framework Agreement, as further detailed in the Manual.

#### **68. Joint and aggregated procurement**

(1) The Central Procurement Unit may coordinate joint or aggregated procurement on behalf of two or more Procuring Entities, including through Framework Agreements, to obtain better Value for Money, while preserving competition so far as practicable.

(2) Participating Procuring Entities shall cooperate in planning and aggregating their requirements; and the conduct of joint and aggregated procurement shall be as detailed in the Manual.

#### **69. Validity of Framework Agreements**

(1).Framework Agreements shall have a limit to the scope and quantity of allowable Goods, Services or Works or a limit to the consolidated value or amount of Goods, Services or Works that can be procured under the Framework Agreement.

(2).Once the quantity, value or time limit has been reached, the Framework Agreement shall be considered expired, and a separate tendering procedure is required to award a new Framework Agreement.

(3).The Central Procurement Unit shall, well in advance of the Framework Agreement expiration, assess the competitiveness and suitability to the Procuring Entities; needs and decide whether a possible option of extension shall be used, or Public Procurement of a new Framework Agreement shall be initiated.

### **PART IX — LOW VALUE PROCUREMENT**

#### **70. Application**

For the purposes of Part IX of these Regulations, Low Value Procurement shall be applied with reference to specific value thresholds as determined in the Delegation of Authority.

#### **71. Low Value Procurement**

(1) Low Value Procurement is conducted by a simplified procedure proportionate to its value, as further detailed in the Manual.

(2) It is ordinarily carried out by a Request for Offers, being the simplified Invitation to Tender for Low Value Procurement, by inviting and comparing offers from a sufficient number of Economic Operators. For Very Low Procurement, it may be carried out by direct purchase as provided in the Manual.

(3) The Procuring Entity conducts the whole procurement through its Procuring Officer, who prepares the Request for Offers, invites and receives offers, checks eligibility, evaluates against the stated criteria and prepares the evaluation record, awards and signs the Contract within the Delegation of Authority, and submits copies of the procurement and Contract documents to the Central Procurement Unit.

(4) The general principles in Part I and the requirements on procurement planning, eligibility, Value for Money, integrity and conflict of interest, and record-keeping apply to Low Value Procurement; but the requirements designed for higher-value procurement in Parts IV to VII — in particular an Evaluation Committee, prior approval of the Chief Procurement Officer, securities and guarantees, pre-qualification, and the publication, standstill and full tender-timeline requirements — do not apply.

(5) The number of offers required and the documentation are as set out in the Manual.

## **PART X — CONSULTING SERVICES**

### **72. Selection of Consulting Services**

(1) For Consulting Services, the Procuring Entity shall use the selection method appropriate to the nature, complexity, risk and value of the assignment, preserving competition so far as practicable; and the detailed procedure for each method is set out in the Manual.

(2) The selection methods are —

- a) Quality- and Cost-Based Selection (QCBS), under which Tenders are scored on both technical quality and price combined by the weighting stated in the tender documents, the Contract being awarded to the highest combined score; this is the default method for assignments of significant value or complexity;
- b) Quality-Based Selection (QBS), under which the Contract is awarded to the highest-quality technical Tender and the price is then negotiated; used for complex, specialised or high-risk assignments where quality is decisive;
- c) Fixed-Budget Selection (FBS), under which the budget is stated and fixed and the Contract is awarded to the highest-quality Tender within the budget; used where the budget is set and the scope can be precisely defined;
- d) Least-Cost Selection (LCS), under which a minimum quality threshold is set and the Contract is awarded to the lowest-priced compliant Tender; used for standard or routine assignments of small value;
- e) Consultants; Qualifications Selection (CQS), under which the Procuring Entity selects, on the basis of expressions of interest and qualifications, the Consultant with the most suitable experience and invites a single Tender for negotiation; used for small assignments where full competition is not justified;
- f) Selection of Individual Consultants, under which individuals are compared on their qualifications and experience for the assignment; used where the services of an individual are sufficient and a firm is not required; and
- g) Single-Source Selection, under which a Consultant is selected without competition, only where justified (such as the continuation of an existing assignment, a very small or emergency assignment, or where only one Consultant is qualified), subject to a written justification and the approval required under these Regulations.

(3) The Procuring Entity shall apply the simpler methods — in particular Consultants; Qualifications Selection, Least-Cost Selection and the Selection of Individual Consultants — to the lower-value and routine assignments that make up the majority of Consulting Services, and

shall reserve Quality- and Cost-Based and Quality-Based Selection for assignments of higher value, complexity or risk.

## **PART XI — COMPLAINTS**

### **73. Complaints before the Procuring Entities**

- (1).Tenderers shall have access to an efficient system to submit written complaints, in line with the principles of the Act.
- (2).Complaints regarding Invitation to Tender procedures shall be received by the Procuring Entity at the latest 10 calendar days before the deadline for the submission of Tenders.
- (3).Complaints regarding a Contract or Framework Agreement Award shall be received by the Procuring Entity at the latest 10 calendar days from the submission of the award decision.
- (4).Procuring Entities shall, without delay, analyse a complaint, with guidance and support from the Central Procurement Unit, and issue a decision on the complaint, which shall be notified in writing to the Tenderer.

### **74. Complaints before the Chief Procurement Officer**

- (1).For Medium Value Procurement, Tenderers that are dissatisfied with the decision issued by the Procuring Entity shall be entitled to raise the matter of dissatisfaction before the Chief Procurement Officer. Complaints must be received by the Chief Procurement Officer at the latest 10 calendar days after the Procuring Entity;s decision.
- (2).The Chief Procurement Officer shall, without delay, analyse the matter and issue a decision, which shall be notified in writing to the Tenderer.
- (3). The decision of the Chief Procurement Officer is final.

### **75. Complaints before the Procurement Complaints Board**

- (1).For High Value Procurement, Tenderers that are dissatisfied with the decision issued by the Procuring Entity shall be entitled to raise the matter of dissatisfaction before the Procurement Complaints Board. Complaints must be received by the Procurement Complaints Board at the latest 10 calendar days after the Procuring Entity;s decision.
- (2).The Procurement Complaints Board shall be a semi-permanent board responsible for appeals to complaint decisions issued by Procuring Entities and shall be composed of at least the following representatives:
  - a) Permanent Secretary of the Ministry responsible for Finance, with the responsibility to coordinate the work and as Chairperson of the board;
  - b) Attorney General;
  - c) Permanent Secretary or a high-level representative from the management board of the Procuring Entity as owner of the Public Procurement budget; and
  - d) The Senior Procurement Officer with the role to provide a reasoned opinion, not participating in the final decision.
- (3). The Procurement Complaints Board shall, without delay, analyse the matter and issue a decision, which shall be notified in writing to the Tenderer.

(4). The decision of the Procurement Complaints Board is final.

(5) The Procurement Complaints Board shall act independently, impartially and without direction from any Procuring Entity; a member who has a Conflict of Interest in a matter shall declare it and not take part in that matter; and the Board shall have a quorum of at least three members.

(6) Before deciding, the Board shall give the complainant and the Procuring Entity an opportunity to make written submissions and, where it considers it necessary, to be heard; and its decision under sub-regulation (3) shall be in writing, give reasons, and be issued within [20] calendar days of receiving the complaint or such longer period as the Board records.

(7) The submission of a complaint within the standstill period suspends the award of the Contract until the complaint is determined, unless the Board decides, for recorded reasons, that continuation is justified by an urgent public interest.

(8) On determining a complaint, the Board may dismiss it, require a Procuring Entity to correct a breach, set aside an unlawful decision or act, or grant such other proportionate remedy as the Manual may prescribe, and shall record its decision and reasons.

## **PART XII — INTEGRITY AND CONDUCT**

### **76. Conflict of interest**

(1) A public officer involved in Public Procurement who has, or becomes aware that they may have, a Conflict of Interest within the meaning of section 37A of the Act shall declare it in writing to the head of the Procuring Entity and take no further part in the Public Procurement pending a decision.

(2) The head of the Procuring Entity shall manage the Conflict of Interest by recusal, reassignment or other adequate measure, record the decision and reasons, and, where it cannot be managed within the Procuring Entity, refer it to the Chief Procurement Officer or, where it concerns the Chief Procurement Officer, to the Office of the Attorney General.

(3) Each Procuring Entity shall maintain a register of declarations and decisions under this regulation, to which the Central Procurement Unit shall have access; a declaration shall be treated as confidential and used only for managing Conflict of Interest, audit, oversight or investigation.

(4) The Invitation to Tender shall require each Tenderer to declare any Conflict of Interest; and a Tenderer that has gained an unfair advantage shall be excluded unless the advantage can be effectively neutralised by recorded, proportionate means.

### **77. Fraud and corruption**

(1) In this regulation — corrupt practice; means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; fraudulent practice; means any act or omission, including a misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party to obtain a financial or other benefit or to avoid an obligation; collusive practice; means an arrangement between two or more parties designed to achieve an improper purpose; coercive practice; means impairing or harming, or

threatening to impair or harm, directly or indirectly, a party or its property to influence improperly its actions; and obstructive practice; means deliberately destroying, falsifying, altering or concealing evidence, or making false statements, to impede an investigation or audit, or threatening or harassing a party to prevent disclosure.

(2) A Procuring Entity shall reject a Tender, and refer the matter to the Chief Procurement Officer, where it determines that the Tenderer, or any of its personnel, agents or sub-contractors, has engaged in a corrupt, fraudulent, collusive, coercive or obstructive practice in competing for or performing a Contract.

(3) Debarment is imposed in accordance with Regulation 79; and Procuring Entities shall exclude any debarred Economic Operator during the period of debarment, without prejudice to liability under the Penal Code and section 38 of the Act.

#### **78. Code of conduct for procurement officials**

(1) Every public officer, and every member of an Evaluation Committee, the Central Contract Award Board or the Procurement Complaints Board, who is involved in Public Procurement shall comply with the Code of Conduct under section 37 of the Act and the Kiribati Public Service Code of Conduct.

(2) Such a person shall — (a) act with integrity, impartiality and in the public interest, and use Public Funds economically and efficiently; (b) declare and manage any Conflict of Interest in accordance with Regulation 76; (c) not solicit or accept any gift, hospitality, fee or other benefit that may influence, or be seen to influence, the exercise of their procurement functions; (d) preserve the confidentiality of information obtained in the course of Public Procurement; and (e) sign a declaration of compliance with this regulation, as further detailed in the Manual.

(3) A breach of this regulation may constitute misconduct under section 38 of the Act, the Leaders Code of Conduct Act 2016 or the Penal Code, in addition to any disciplinary action.

#### **79. Debarment of Economic Operators**

(1) Giving effect to section 38A of the Act, the Central Contract Award Board may, on the recommendation of the Chief Procurement Officer, debar an Economic Operator from participating in Public Procurement for a specified period where it is satisfied, after the procedure in this regulation, that the Economic Operator — (a) has engaged in a corrupt, fraudulent, collusive, coercive or obstructive practice within the meaning of Regulation 77; (b) has seriously or repeatedly failed to perform a Contract; or (c) has made a material misrepresentation in a Tender or in the course of a Public Procurement.

(2) Before an Economic Operator is debarred, the Chief Procurement Officer shall give it written notice of the grounds and the supporting evidence and a reasonable opportunity, of not less than [14] days, to respond; and the decision to debar shall be made in writing, with reasons, and notified to the Economic Operator.

(3) The period of debarment shall be proportionate to the gravity of the conduct and shall not exceed [three] years, and may be reduced where the Economic Operator has cooperated or taken effective remedial measures.

(4) An Economic Operator may, within [14] days of being notified, apply for review of the decision, as further detailed in the Manual.

(5) The Chief Procurement Officer shall maintain and publish a list of debarred Economic Operators; a debarred Economic Operator shall be excluded from Public Procurement during the period of debarment; and debarment is without prejudice to liability under section 38 of the Act and the Penal Code.

(6) The detailed debarment procedure is as set out in the Manual.

## **PART XIII — FINAL PROVISIONS**

### **80. Revocation**

(1) The Public Procurement Regulations 2020 are revoked.

(2) The revocation of the Public Procurement Regulations 2020 does not affect the continued operation of the Public Procurement Act 2019, or the validity of anything lawfully done under those Regulations before the commencement of these Regulations.

### **81. Savings and transitional**

(1) Anything done or made under the revoked Regulations and in force immediately before the commencement of these Regulations continues in force, on and after that commencement, as if it had been done or made under the corresponding provision of these Regulations.

(2) A Public Procurement commenced before the commencement of these Regulations shall be continued and completed under the revoked Regulations, unless the Chief Procurement Officer directs that it be continued under these Regulations where this can be done without unfairness to participating Economic Operators.

(3) A reference in any other instrument to the revoked Regulations is to be read, on and after the commencement of these Regulations, as a reference to these Regulations or to the corresponding provision of these Regulations.

### **82. Entry into force**

(1) These Regulations shall enter into force upon promulgation of the Minister responsible for Finance and after the entry into force of the Act.

(2) Upon entry into force of the Regulations, any previous procurement regulations shall be repealed.

### **83. Transition and phased adoption of electronic procurement**

(1) Until the Chief Procurement Officer mandates the use of the Electronic Procurement Portal for a stage, category, value band or Procuring Entity, the existing non-electronic procedures of these Regulations continue to apply and remain fully valid.

(2) The Chief Procurement Officer shall publish the scope and timetable of each phase by which use of the Electronic Procurement Portal is mandated under regulation 6(1).

(3) Where access to the Electronic Procurement Portal is constrained, including for the Line and Phoenix Islands and other outer islands, the Chief Procurement Officer may authorise hybrid

submission — that is, electronic submission supported by a physical backup, or physical submission subsequently registered on the Portal — as further detailed in the Manual.

## ANNEX I –SCHEDULE OF THRESHOLDS

| PUBLIC PROCUREMENT THRESHOLDS (AUD) |                  |                |                     |
|-------------------------------------|------------------|----------------|---------------------|
| CATEGORY OF PUBLIC PROCUREMENT      | GOODS & SERVICES | WORKS          | CONSULTING SERVICES |
| VERY LOW VALUE PROCUREMENT – VLVP   | 0-999            | 0-9,999        | 0-4,999             |
| LOW VALUE PROCUREMENT – LVP         | 1.000-9,999      | 10,000-49,999  | 5,000-49,999        |
| MEDIUM VALUE PROCUREMENT – MVP      | 10.000-49,999    | 50,000-250,000 | 50,000-199,999      |
| HIGH VALUE PROCUREMENT – HVP        | 50,000>          | 250,000>       | 200,000>            |

## ANNEX II –PROCURING ENTITIES

For the purposes of the Act and the Regulations, Procuring Entities shall be considered the following.

- *The Ministries of the Government of Kiribati;*
- entities funded by Public Funds or controlled by the Government as to 50% or more;
- State-Owned Enterprises, including those listed in Schedule 1 to the State-Owned Enterprises Act 2013;
- statutory corporations; and statutory authorities.

The Chief Procurement Officer maintains the list of named Procuring Entities under this Annex; the Minister may add a body to, or remove a body from, this Annex by notice under regulation 2(6).

## DERIVATION TABLE

*New regulation number in this consolidated text against the provision in the 2026 amendment draft from which it derives.*

| New Reg | Derives from | Title                                                             |
|---------|--------------|-------------------------------------------------------------------|
| 1       | 1            | Short title                                                       |
| 2       | 2            | Scope                                                             |
| 3       | 3            | Exceptions                                                        |
| 4       | 4            | Definitions                                                       |
| 5       | 5            | Value for Money                                                   |
| 6       | 5B           | Electronic procurement                                            |
| 7       | 5C           | Data protection and security of the Electronic Procurement Portal |
| 8       | 7            | Currency and payment                                              |
| 9       | 8            | Eligibility                                                       |
| 10      | 9            | Domestic preference                                               |
| 11      | 10           | Delegation of Authority                                           |
| 12      | 11           | Access to information and records                                 |
| 13      | 20           | Publication of Public Procurement information                     |
| 14      | 21           | Confidentiality of information                                    |
| 15      | 12A          | Minister of Finance and Economic Development                      |
| 16      | 12B          | Central Procurement Unit                                          |
| 17      | 12C          | Procuring Entity                                                  |
| 18      | 12D          | Central Contract Award Board                                      |
| 19      | 12E          | Contract Award Committee                                          |
| 20      | 12F          | Evaluation Committee                                              |
| 21      | 12G          | Procurement Complaints Board                                      |
| 22      | 6            | Annual Procurement Planning                                       |
| 23      | 6A           | Procurement planning                                              |
| 24      | 14A          | Environmental Licence and environmental assessment for Works      |
| 25      | 12           | Application                                                       |

|    |     |                                                                                                          |
|----|-----|----------------------------------------------------------------------------------------------------------|
| 26 | 13  | Initiation of Public Procurement                                                                         |
| 27 | 14  | Choice of procedure                                                                                      |
| 28 | 15  | Open competitive procedure                                                                               |
| 29 | 16A | Two-Stage Tendering                                                                                      |
| 30 | 16  | Pre-Qualification                                                                                        |
| 31 | 14B | Design and Build                                                                                         |
| 32 | 18  | Limited competitive procedure                                                                            |
| 33 | 19  | Single Source procedure                                                                                  |
| 34 | 20B | Negotiated procurement after failed Tenders                                                              |
| 35 | 20A | Emergency and disaster procurement                                                                       |
| 36 | 20C | Remote, outer-island and Island Council procurement                                                      |
| 37 | 20D | Procurement through agents, other agencies, international organisations and highly technical consultants |
| 38 | 22  | Choice of solicitation approach                                                                          |
| 39 | 23A | Request for Quotations                                                                                   |
| 40 | 23B | Request for Proposals                                                                                    |
| 41 | 17  | Securities and guarantees                                                                                |
| 42 | 24  | Questions and answers procedure                                                                          |
| 43 | 25  | Deadline for submitting Tenders                                                                          |
| 44 | 27  | Receipt and registration of Tenders                                                                      |
| 45 | 28  | Opening of Tenders                                                                                       |
| 46 | 29  | Non-valid Tenders                                                                                        |
| 47 | 30  | Rejection of Tenders                                                                                     |
| 48 | 31  | One Tender per Tenderer                                                                                  |
| 49 | 32  | Evaluation procedure                                                                                     |
| 50 | 33  | Evaluation of administrative criteria                                                                    |
| 51 | 34  | Exclusion criteria                                                                                       |
| 52 | 35  | Evaluation of eligibility criteria                                                                       |
| 53 | 36  | Technical Evaluation criteria                                                                            |

|    |     |                                                    |
|----|-----|----------------------------------------------------|
| 54 | 37  | Value for Money evaluation                         |
| 55 | 38A | Abnormally low Tenders                             |
| 56 | 26  | Cancellation of the procurement                    |
| 57 | 23  | The Evaluation Committee                           |
| 58 | 38  | Awarding authorities                               |
| 59 | 39  | Contract or Framework Agreement award              |
| 60 | 40  | Contract or Framework Agreement signature          |
| 61 | 41  | Advance payments                                   |
| 62 | 42  | Project management                                 |
| 63 | 43  | Contract management                                |
| 64 | 46  | Identification of needs                            |
| 65 | 47  | Single Framework Agreement                         |
| 66 | 48  | Multiple Framework Agreement                       |
| 67 | 49  | Duration of the Framework Agreement                |
| 68 | 50A | Joint and aggregated procurement                   |
| 69 | 50  | Validity of Framework Agreements                   |
| 70 | 44  | Application                                        |
| 71 | 45  | Low Value Procurement                              |
| 72 | 44A | Selection of Consulting Services                   |
| 73 | 51  | Complaints before the Procuring Entities           |
| 74 | 52  | Complaints before the Chief Procurement Officer    |
| 75 | 53  | Complaints before the Procurement Complaints Board |
| 76 | 54A | Conflict of interest                               |
| 77 | 54B | Fraud and corruption                               |
| 78 | 54C | Code of conduct for procurement officials          |
| 79 | 54D | Debarment of Economic Operators                    |
| 80 | —   | Revocation                                         |
| 81 | —   | Savings and transitional                           |

|    |    |                                                          |
|----|----|----------------------------------------------------------|
| 82 | 54 | Entry into force                                         |
| 83 | 55 | Transition and phased adoption of electronic procurement |

*Annexes: Annex I — Schedule of Thresholds (including the differentiated Consulting Services thresholds); Annex II — Procuring Entities. [To be appended.]*