

18th June, 2013

LEGAL NOTICE NO. 106

THE PUBLIC PROCUREMENT AND DISPOSAL ACT

(No. 3 of 2005)

IN EXERCISE of the powers conferred by Section 140 of the Public Procurement and Disposal Act, the Cabinet Secretary for the National Treasury makes the following Regulations-

THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) REGULATIONS, 2013

Citation.

1. These Regulations may be cited as the Public Procurement and Disposal (Amendment) Regulations, 2013.

Sub. Leg.

2. Regulation 8(3) of the Public Procurement and Disposal Regulations, 2006, in these Regulations referred to as “the principal Regulations”, is amended by deleting subparagraph (a) and substituting therefor the following new subparagraph –

(a) maintain and update bi-annually, standing lists of registered tenderers required by the procuring entity through a pre-qualification process and submit the results to the Authority for consolidation, within fourteen days from date of notification.

3. Regulation 10 of the principal Regulations is amended in paragraph (2) by deleting paragraph (d) and substituting therefor the following new paragraph-

(d) approve the commencement of the procurement process upon the approval of the annual procurement plan by the accounting officer and where applicable the board of directors or a similar body and upon satisfaction that sufficient funds are available to meet the obligations of the entity arising from any contract as set out in the budgetary estimates or such documentation evidencing the availability of the funds, before making an award is provided;

4. Regulation 12 of the principal Regulations is amended–

(a) in paragraph (8) by deleting the word “fifty” and substituting therefor the word “one hundred”;

(b) adding the following new paragraph immediately after paragraph (10)-(11) The observers shall be to-

(a) monitor the procurement process and prepare a report on whether the process has been

carried out in accordance with Section 2 of the Act; and

(b) submit to the accounting officer and the Authority, within fourteen days from date of notification of the award, the report prepared under subparagraph (a).

5. The principal Regulations are amended by deleting regulation 16 and substituting therefor the following new regulation—

Evaluation, Negotiations, Inspection and Acceptance Committee.

16. (1) A procuring entity shall establish a tender processing committee in relation to each procurement process for the purposes of carrying out the evaluation of the tenders or proposals, negotiations or inspection and acceptance of goods, works or services.

(2) A committee established under paragraph (1) shall consist of a chairperson and at least three other members all appointed by the accounting officer or the head of the procuring entity upon recommendation by the procurement unit.

(3) A person shall be appointed as a member of the committee under paragraph (2) if he or she is a member of the tender committee of the procuring entity.

(4) The committee shall-

(a) adhere to the compliance and evaluation criteria set out in the tender documents in undertaking in carryout the technical and financial evaluation of the tenders or proposals received by the procuring entity;

(b) evaluate the tenders within a period of fifteen days after the opening of the tenders; and

(c) carry out the tender evaluation with all due diligence.

(5) Each member of the committee shall evaluate the tenders or proposals received by the procuring entity independently from the other members prior to sharing his or her analysis, questions and evaluation including his or her rating with the other members of the committee.

(6) A member of the committee shall not communicate with a tenderer who has submitted a tender or proposal that is under the consideration of the evaluation.

(7) A tender processing committee shall prepare an evaluation report on the analysis of the tenders receive, and final ratings assigned to each tender and submit the report to the tender committee.

(8) The report prepared under paragraph (7) shall include-

(a) the results of the preliminary evaluation, with reasons why any tender or proposal was

rejected;

- (b) the scores awarded by each evaluator for each tender or proposal;
- (c) a summary of the relative strengths and weaknesses of each tender or proposal;
- (d) the total score for each tender or proposal; and
- (e) a recommendation to award the tender to the lowest evaluated tenderer or to the person who submitted the proposal with the highest total score.

6. The principal Regulations are amended by deleting regulation 17 and substituting therefor the following new regulation—

Inspection and acceptance

17. The committee established under regulation 16 shall immediately after the delivery of the goods, works or services—

- (a) inspect and where necessary, test the goods received;
- (b) inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract;
- (c) accept or reject, on behalf of the procuring entity, the delivered goods, works or services;
- (d) ensure that the correct quantity of goods have been received;
- (e) ensure that the goods, works or services meet the technical standards specified in the contract;
- (f) ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted;
- (g) ensure that all required manuals or documentation in relation to the goods, works or services have been received; and
- (h) ensure the issuance of interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

7. Regulation 20 of the principal regulations is amended—

- (a) in paragraph (5) by inserting the words “tender committee,” immediately after the words “approved by the”;

(b) by adding the following new paragraph immediately after paragraph (5) -

(6) The approval of a plan under paragraph (5) by the tender committee shall be deemed to include the approval of all alternative procurement procedures under section 29(3) of the Act.

8. Regulation 24 of the principal Regulations is amended in paragraph (4) by deleting the word “fourteen” and substituting therefor the word “seven”.

9. Regulation 31 of the principal Regulations is amended by adding the following paragraph immediately after paragraph (4)-

(e) the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty five percent of the original contract sum.

10. Regulation 36 of the principal Regulations is amended by deleting the word “thirty” and substituting therefor the words “twenty one”.

Fee for tender documents.

11. The principal Regulations are amended by deleting regulation 39 and substituting therefor the following new regulation—

(1) A procuring entity may, pursuant to section 56(2) of the Act, charge a fee not exceeding one thousand shillings for hard copies of tender documents.

(2) In determining the fee payable under paragraph (1), a procuring entity shall only have regard to the costs related to printing, copying, and distributing or of converting the documents into electronic form. (3) A procuring entity shall not charge a fee under paragraph (1) where the tender documents are –

(a) obtained electronically;

(b) invitations for expression of interest; or

(c) invitations for pre-qualification.

(4) Where a procuring entity charges a fee for the delivery of tender documents, the procuring entity shall permit potential tenderers to inspect the documents, prior to paying the fee for the document.

12. The principal Regulations are amended by deleting regulation 40 and substituting therefor the following new regulation—

Time for preparing national tenders.

40. The minimum period for the preparation of national open tenders for the purposes of

section 55 (1) of the Act shall be fourteen days.

13. Regulation 41 of the principal Regulations is amended by deleting paragraph (3) and substituting therefor the following new paragraph –

(3) The tender security under section 57 of the Act shall be provided in the following form-

(a) cash;

(b) a bank guarantee;

(c) such insurance company guarantee as may be approved by the Authority;

(d) a letter of credit; or

(e) guarantee by a deposit taking microfinance institution, Sacco society, the Youth Enterprise Development Fund or the Women Enterprise Fund.

14. Regulation 46 of the principal Regulations is amended by -

(a) renumbering the existing provision as paragraph (1);

(b) deleting the word “thirty” appearing in the new paragraph (1) and substituting therefore the word “fifteen”;

(c) inserting the following new paragraph immediately after the new paragraph (1) –

(2) Where a tender is complex or has attracted a high number of tenderers, the accounting officer or head of the procuring entity may extend the period for tender evaluation under paragraph (1) for a further period within the tender validity period not exceeding thirty more days from date of expiry of initial period.

15. Regulation 54 of the principal Regulations is amended in paragraph (5) by deleting the word “fourteen” and substituting therefor the word “seven”.

16. Regulation 55 of the principal Regulations is amended –

(a) in paragraph (2) by deleting the word “fourteen” and substituting therefor the word “seven”;

(b) by adding the following new paragraph immediately after paragraph (2) -

17. Regulation 64 of the principal Regulations is amended in paragraph (1) by adding the following new paragraph immediately after paragraph (c) -

(d) where competitive negotiations are critical for achieving value for money in the procurement of specialized goods, works or services.

18. Regulation 65 of the principal Regulations is amended by –

(a) renumbering the existing provision as paragraph (1); and

(b) adding the following new paragraph immediately after paragraph (1) –

(2) The period of tender award shall not exceed thirty days from the date of tender opening.

19. Regulation 66 of the principal Regulations is amended by deleting paragraph (2) and substituting therefor the following new paragraph –

(2) A procuring entity shall immediately after tender award notify an unsuccessful tenderer in writing and shall in the same letter provide reasons as to why the tender, proposal or application to be pre-qualified was unsuccessful.

20. Regulation 73 of the principal Regulations is amended in paragraph (2) by –

(a) deleting the word “fourteen” appearing in subparagraph (c) and substituting therefor the word “seven”;

(b) deleting the word “three” appearing in paragraph (d) and substituting therefor the word “fifteen”;

(c) inserting the word “non-refundable” immediately after the words “by the” appearing in paragraph (e).

21. Regulation 74 of the principal Regulations is amended by deleting paragraph (3) and substituting therefor the following new paragraph –

(3) Upon being served with a notification of a request, the procuring entity shall-

(a) notify the Secretary of the names and contact details of all parties to the review; and

(b) within five days or such lesser period as may be specified by the Secretary in a particular case, submit to the Secretary a written memorandum of response to the reasons for the request together with such documents as the Secretary may specify.

22. The principal Regulations are amended by inserting the following new regulations immediately after regulation 94-

Reporting on public contract awards.

95. For purposes of section 46(1), each procuring entity shall submit to the Authority, on

a quarterly basis, information of all public contract awards as directed by the Authority.

23. The principal Regulations are amended by deleting the First Schedule and substituting therefor the following new Schedule.

Part II

FEES FOR REVIEWS

1. Administrative fee KES 5,000

2. Upon filing a request for review, the fees payable shall be as follows-

Amount of Tender	Fees
1. Tenders of Ascertainable Value	
(a) Does not exceed KES. 2,000,000	1% subject to a minimum of KES. 20,000/-
(b) Exceeds KES. 2,000,000/- but not over KES. 50,000,000/-	The fees for KES. 2000,000 plus an additional fee of 0.25% on the amount above KES. 2,000,000
(c) Exceeds KES. 50,000,000/-	The fees for tender sum of KES. 50,000,000 plus an additional fee of 0.025% on the amount above KES.50,000,000/- subject to a maximum fee of KES. 200,000/-
2. Pre-qualification and other “Unquantified Tenders	KES. 40,000
(f) Any other Tenders	Subject to a minimum of KES. 20,000/- and a maximum of KES. 40,000/-
3. Upon request of an adjournment to a party by the Board	KES.10, 000/-
4. filing preliminary objection	KES.5, 000/-
5. Fee to accompany the review of	KES.40, 000/-

Director General's order (s.106 (3))	
6. Filing fees on each request for a review on debarment order (s.117(3))	KES.40, 000/-
7. The Secretary may demand additional fee if the fee paid at the time of filing is less than that ascertained to be chargeable.	

FIRST SCHEDULE
THRESHOLD MATRIX

THRESHOLDS MATRIX FOR CLASS A PROCURING ENTITIES

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
International Open tender (s 71 of the Act)	There is no maximum or minimum level of expenditure under this method	There is no maximum or minimum level of expenditure under this method	There is no maximum or minimum level of expenditure under this method	The Accounting Officer	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
National Open tender (s 54(2) of the Act)	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
	When using this method the minimum expenditure that requires advertising is KES. 6,000,000/- below which may use alternative advertising methods	When using this method the minimum expenditure that requires advertising is KES. 6,000,000 below which may use alternative advertising methods	When using this method the minimum expenditure that requires advertising is KES. 3,000,000 below which may use alternative advertising methods	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
Restricted tender Under s 73(2) of the Act	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
	The minimum level of expenditure is KES. 2,000,000 below this threshold use request for quotations	The minimum level of expenditure is KES. 4,000,000 below this threshold use request for quotations	The minimum level of expenditure is KES. 2,000,000 below this threshold use request for quotations	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
Request for proposals (s 76(1) of the Act)	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
Direct Procurement under s 74(2) and (3) of the Act	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Department	Tender committee or Procurement committee where expenditure is below KES. 500,000	The Accounting Officer or Head of the User Department where expenditure is below KES. 500,000	Evaluation, negotiations, inspection and acceptance committee
Request for quotations (s 88 of the Act)	Maximum level of expenditure under this method is KES. 2,000,000	Maximum level of expenditure under this method is KES. 4,000,000	Maximum level of expenditure under this method is KES. 2,000,000	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
	Minimum level of expenditure under this method is KES. 30,000 per procurement per item	Minimum level of expenditure under this method is KES. 50,000 per procurement per item	Maximum level of expenditure under this method is KES. 30,000 per procurement per item	Head of the User Department	Procurement committee where expenditure is below KES. 500,000	Head of the User Department where expenditure is below KES. 500,000	Evaluation, negotiations, inspection and acceptance committee
Low value procurement(s 90 of the Act)	Maximum level of expenditure under this method is KES. 30,000 per procurement per item	Maximum level of expenditure under this method is KES. 50,000 per procurement per item	Maximum level of expenditure under this method is KES. 30,000 per procurement per item	Head of the User Department	User Department	The Head of the Procurement Unit	Stores officer
	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	Head of the User Department	User Department	The Head of the Procurement Unit	Stores officer

THRESHOLDS MATRIX FOR CLASS B PROCURING ENTITIES

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
International Open tender (s 71 of the Act)	There is no maximum or minimum level of expenditure under this method	There is no maximum or minimum level of expenditure under this method	There is no maximum or minimum level of expenditure under this method	The Accounting Officer	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee.
National Open tender (s 54(2) of the Act)	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
	When using this method the minimum expenditure that requires advertising is KES 5,000,000/- below which may use alternative advertising methods	When using this method the minimum expenditure that requires advertising is KES 5,000,000/- below which may use alternative advertising methods	When using this method the minimum expenditure that requires advertising is KES 3,000,000/- below which may use alternative advertising methods	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
Restricted tender Under s. 73 (2) of the Act	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Head of the User Department	Tender Committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
	The minimum level of expenditure is KES 1,500,000 below this threshold use request for quotations	The minimum level of expenditure is KES 3,000,000 below this threshold use request for quotations	The minimum level of expenditure is KES 1,500,000 below this threshold use request for quotations	Head of the User Department	Tender Committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
Request for proposals s 76(1) of the Act	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
Request for quotations (s 88 of the Act)	Maximum level of expenditure under this method is KES 1,500,000	Maximum level of expenditure under this method is KES 3,000,000	Maximum level of expenditure under this method is KES 1,500,000	Head of the User Department	Tender committee or Procurement committee where	The Accounting Officer or Head of the User	Evaluation, negotiations, inspection and acceptance

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method		expenditure is below KES 500,000	Department where expenditure is below KES 500,000	
Direct procurement Under s. 74 (2) and (3) of the Act.	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Department	Tender committee or Procurement committee where expenditure is below KES 500,000	The Accounting Officer or Head of the User Department where expenditure is below KES 500,000	Evaluation, negotiations, inspection and acceptance committee
Low value procurement (s 90 of the Act)	Maximum level of expenditure under this method is KES 10, 000/- per procurement per item	Maximum level of expenditure under this method is KES 10, 000/- per procurement per item	Maximum level of expenditure under this method is KES 10, 000/- per procurement per item	Head of the User Department	User department	The Head of the Procurement Unit	Stores officer

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	Head of the User Department	User department	The Head of the Procurement Unit	Stores officer

THRESHOLDS MATRIX FOR CLASS C PROCURING ENTITIES

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
Informational Open tender (s 71 of the Act)	There is no maximum or minimum level of expenditure under this method	There is no maximum or minimum level of expenditure under this method	There is no maximum or minimum level of expenditure under this method	The Accounting Officer	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
National Open tender (S54 (2) of the Act)	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
	When using this method the minimum expenditure that requires advertising is KES 4,000,000/- below which may use alternative advertising methods	When using this method the minimum expenditure that requires advertising is KES 4,000,000/- below which may use alternative advertising methods	When using this method the minimum expenditure that requires advertising is KES 2,000,000/- below which may use alternative advertising methods	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
Restricted tender Under 73 (2) of the Act	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
	The minimum level of expenditure is KES 500,000. Below this threshold request for quotations	The minimum level of expenditure is KES 500,000. Below this threshold request for quotations	The minimum level of expenditure is KES 500,000. Below this threshold request for quotations	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee
Request for proposals (s. 76(1) of the Act)	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	Head of the User Department	Tender committee	The Accounting Officer	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
Request for quotations (s 88 of the Act)	Maximum level of expenditure under this method is KES 500,000	Maximum level of expenditure under this method is KES 500,000	Maximum level of expenditure under this method is KES 500,000	Head of the User Department	Tender committee or Procurement committee where expenditure is below KES.100,000	The Accounting Officer or Head of the User Department where expenditure is below KES.100,000	Evaluation, negotiations, inspection and acceptance committee
Direct procurement Under 74 (2) and (3) of the Act.	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	No minimum or maximum expenditure under this method provided the conditions under this section are met	The Accounting Officer Head of the User Department initiates procurement whose expenditure is below KES. 200,000	Tender committee Procurement committee awards for procurement whose expenditure is below KES. 200,000	The Accounting Officer or Head of the User Department where expenditure is below KES. 200,000	Evaluation, negotiations, inspection and acceptance committee

Procurement Method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method			Segregation of duties for different officers and committees in the procurement cycle under section 26(3)(c) of the Act)			
	Goods	Works	Services	Person responsible for procurement initiation	Body responsible for the awarding the contract	Person responsible for signing the Contract	Verification of receipt of goods, services or works
Low value procurement (s 90 of the Act)	Maximum level of expenditure under this method is KES 5,000 per procurement per item	Maximum level of expenditure under this method is KES 5,000 per procurement per item	Maximum level of expenditure under this method is KES 5,000 per procurement per item	Head of the User Department	User Department	The Head of the Procurement Unit	Stores officer
	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	Head of the User Department	User Department	The Head of the Procurement Unit	Stores officer

6. The Fourth Schedule of the principal Regulations is amended by deleting Part II and substituting therefor the following new Part -

Part II

FEES FOR REVIEWS

1. Administrative fee KES 5,000

2. Upon filing a request for review, the fees payable shall be as follows-

Amount of Tender	Fees
1. Tenders of Ascertainable Value	
(a) Does not exceed KES. 2,000,000	1% subject to a minimum of KES. 20,000/-
(b) Exceeds KES. 2,000,000/- but not over KES. 50,000,000/-	The fees for KES. 2,000,000 plus an additional fee of 0.25% on the amount above KES. 2,000,000
(c) Exceeds KES. 50,000,000/-	The fees for tender sum of KES. 50,000,000 plus an additional fee of 0.025% on the amount above KES. 50,000,000/- subject to a maximum fee of KES. 200,000/-
2. Pre-qualification and other Unquantified Tenders	KES. 40,000/-
(i) Any other Tenders	Subject to a minimum of KES. 20,000/- and a maximum of KES. 40,000/-
3. Upon request of an adjournment to a party by the Board	KES. 10,000/-
4. Filing preliminary objection	KES. 5,000/-
5. Fee to accompany the review of Director General's order (s.106 (3))	KES. 40,000/-
6. Filing fees on each request for a review on debarment order (s. 117(3))	KES. 40,000/-
7. The Secretary may demand additional fee if the fee paid at the time of filing is less than that ascertained to be chargeable.	

Made on the 18th June, 2013.

HENRY ROTICH,
Cabinet Secretary for the National Treasury.