

Presidential Directive No. 05/2013

Concerning the Rules for Corporate Procurement Activities of the African Development Bank

Issued by the President on 17 September, 2013



AFRICAN DEVELOPMENT BANK GROUP

CONCERNING THE RULES FOR CORPORATE PROCUREMENT ACTIVITIES OF THE AFRICAN DEVELOPMENT BANK

Issued by the President on ~~17 SEP 2013~~ 2013

THE PRESIDENT of the African Development Bank;

HAVING REGARD to Article 37 of the Agreement Establishing the African Development Bank (the “Bank”) and Regulation 12.2(4) of the Bank’s Financial Regulations in relation to the procurement of goods and services for the internal use of the Bank:

HEREBY ESTABLISHES the rules governing the corporate procurement activities of the Bank.

1. PURPOSE

This Directive is issued pursuant to the provisions of Presidential Directive No. 03/2002 concerning the African Development Bank (the “Bank”) Directives System.

The Directive aims to set out the rules applicable to the procurement of goods, services, real estate and works, for the internal use of the Bank that is financed under the Bank’s Administrative and Capital Expenditure Budgets or by other sources of funds, such as from development finance or aid institutions, with whom the Bank has concluded an agreement that requires the application of the Bank’s internal procurement procedures.

2. IMPLEMENTATION

There shall be a Corporate Procurement Manual that establishes and sets out the procedures to be used within the Bank to ensure the full implementation of this Directive.

3. ABROGATION

This Directive abrogates and supersedes all other previous instructions and directives on the same subject, in particular Presidential Instruction No. 05/2000 issued on 12 October 2000.

4. ENTRY INTO FORCE AND TRANSITION

This Directive shall enter into force on the date of its signature. Any procurement activity for which a solicitation or a contract had been issued prior to this date shall be completed in accordance with Presidential Instruction No. 05/2000.



President
Donald Kaberuka

Table of Contents

I. General Provisions	
1. Objectives	11
2. Scope Of Application	11
3. Eligibility	12
4. Procurement Ethics, Integrity, Anti-Corruption and Fairness	13
5. Social and Environmental Considerations	14
6. Delegation of Authority	14
II. Institutional Framework for Corporate Procurement	
7. Vice-President, Corporate Services	14
8. Vice Presidents, Directors and Heads of Organizational Units Reporting Directly to the President	14
9. General Services and Procurement Department	14
10. External Offices	14
11. Oversight Committees	14
12. Segregation of Duties	15
III. Procurement Planning, Vendor Registration and Advertising	
13. Annual Corporate Procurement Plan	15
14. Vendor Registration	15
15. Market Knowledge and Advertising	15
IV. Solicitation Process and Documents	
16. Methods of Procurement	16
V. Requirement Definition and Evaluation Criteria	17
VI. Cooperative Procurement	17
VII. Solicitation Documents and Alternative Submissions	17
VIII. Submission Period and Validity	17
IX. Financial Measures	18
X. Solicitation Process and Contract Award	
22. Clarifications and Amendments to Solicitation Documents	18
23. Receipt and Opening of Submissions	18
24. Evaluation of Submissions	18
25. Cancellation of a Procurement Process	19
26. Award of Contract and Debriefing	19
XI. Contract Management	
27. Contract Management and Modifications	19
28. Contractor Performance	19
XII. Dispute Resolution	
29. Contract Disputes	110
30. Award Protest Procedures	110
XIII. Final Provisions	110

I. General Provisions

1. Objectives

1.1 The objective of the Directive is to set out the rules for the efficient and economic acquisition of Goods, Services, Real Estate and Works required by the Bank to carry out its mandate and operations with due consideration to ethical conduct.

1.2 The Bank shall ensure that best value for money is achieved while upholding the principles of transparency, fairness, competition and accountability, and including the Bank's commitment to the promotion of sustainable development.

1.3 This Directive strengthens the institutional culture of ethical and professional conduct by all Bank officials, and promotes the highest standard of ethics among Vendors, Bidders, and Contractors engaged in the Bank's corporate procurement activities. It commits the Bank to ensuring equal opportunity for Vendors from Member Countries of the Bank to compete for the supply of the required Goods, Services, Real Estate and Works.

1.4 In this Directive, unless the context otherwise suggests or implies, the following terms shall have the meanings indicated below:

- a) *Bank* means the African Development Bank, the African Development Fund and The Nigeria Trust Fund collectively, or any of them individually, as the case may be;
- b) *Bidder* means a Vendor that has responded to a solicitation document issued by the Bank;
- c) *Business* means any incorporated or unincorporated organization recognized by the laws of a Member Country of the Bank that has the capacity of entering into contracts and of offering Goods, Services, Real Estate and Works;
- d) *Contractor* means a Vendor who has entered into a contract with the Bank for the provision of Goods, Services, Real Estate or Works;
- e) *Day* means a calendar day;
- f) *External Office* means a regional resource center, a regional office, a country office or an external representation office;

g) *Goods* mean tangible items, including assets and expendable items that are purchased, hired, leased or rented by the Bank. A 'Good' may include related Services, such as transportation, insurance, installation, commissioning, training and initial maintenance, provided that the value of those Services is less than the value of the Goods acquired;

h) *Natural Person* means an individual authorized by the laws of a Member Country of the Bank to offer Goods, Services, Real Estate and Works;

i) *Real Estate*, also known as real property, means land, buildings and premises that are purchased, built or leased by the Bank;

j) *Services* means all services except consulting services. For the purposes of this Directive "Consulting Services" refers to expert, intellectual or advisory services;

k) *Vendor* means any Natural Person or Business that is in the business of selling or otherwise providing Goods, Services, Real Estate or Works; and

l) *Works* means the construction, reconstruction, demolition, outfitting, repair or renovation of premises or related infrastructures. Such contracts may include related Services where the value of those Services does not exceed the value of the Works.

2. Scope of Application

2.1 Procurement under this Directive refers to the overall process of acquiring Goods, Services, Real Estate and Works through purchase or lease, from the initial identification of needs, through planning, solicitation and award of contract, to all phases of contract management ending with the completion of a contract or the useful life of an asset.

2.2 The Directive applies to procurement activities necessary for the discharge of the corporate activities of the Bank, including its External Offices, that is financed:

- a) under the Bank's Administrative and Capital Expenditure Budgets; or

- b) subject to the specific eligibility requirement applicable to the other sources of funds, such as from development finance or aid institutions, with which the Bank has concluded an agreement and which requires the application of the Bank's internal procurement procedures.

to the Business has been contributed by nationals from a Member Country of the Bank.

2.3 The following are not governed by the provisions of this Directive:

- a) procurement of Consultancy Services;
- b) employment contracts over which the Personnel Department has authority;
- c) procurement for or by the Integrity and Anti-Corruption Department, in accordance with the Board of Directors' Resolution ADB/BD/WP/2004/125 of 8 November 2005.

3. Eligibility

3.1 Goods, Services, Real Estate and Works procured by the Bank shall be produced in a Member Country and supplied by Contractors from a Member Country, as described in paragraphs 3.2 and 3.3, unless a waiver of Article 17 (1) (d) of the Agreement establishing the Bank is granted by the Board of Directors.

3.2 The eligibility of a Bidder or Contractor on the basis of nationality shall be determined in accordance with the following rules:

- a) Natural Person: a Natural Person is eligible if he or she is a national of a Member Country of the Bank. Where a person has more than one nationality, such a person shall be eligible if the nationality indicated in his or her submission is that of a Member Country of the Bank.
- b) Business: a Business is eligible if it satisfies the following criteria:
 - it has its registered office or has its principal place of business in a country that is a member of the Bank;
 - its legal existence is recognized and is in accordance with the laws of a country that is a member of the Bank; and
 - the majority of its capital is held by nationals from a Member Country of the Bank or, if the Business has no capital, more than half of the value of the members' contributions

3.3 In order to be eligible:

- a) Goods to be procured must have a value of which more than half is attributable to production or to originating materials and inputs from one or more eligible Member Countries of the Bank;
- b) Works must be performed where more than half of the value of the labour is supplied from one or more eligible Member Country of the Bank, and where the equipment and materials needed for carrying out the Works have a value of which more than half is attributable to production or to originating materials and inputs from one or more Member Countries of the Bank.

3.4 A Natural Person or Business shall not normally be eligible at any stage of a competitive procurement process and contract execution if any of the following situations apply and have been declared or should have been declared by the Bidder:

- a) The Natural Person or Business has become bankrupt, is insolvent or, in the case of a business, is in the process of winding-up; is being administered by an administrator appointed by a competent court of law that has entered into an arrangement with creditors; has suspended business activities; or is in any analogous situation arising from a similar procedure provided for in the relevant national legislation or regulation;
- b) The Natural Person or Business has not fulfilled obligations relating to the payment of social security contributions, pension fund premiums, payment of taxes or similar legal statutory payments under the laws of the country in which the Natural Person or Business is established or where the contract is to be performed;
- c) The Natural Person or Business has been convicted of a criminal offence relating to the conduct of its business or profession in the last 10 years;
- d) The Natural Person or Business has been the subject of a judgment for professional misconduct, fraud, corruption, involvement in a criminal organization or any other illegal activity;

e) The Natural Person or Business has been debarred or cross-debarred by the Bank on the basis of corrupt, fraudulent, collusive, coercive and obstructive practices.

3.5 A Natural Person or Business, or any of its affiliates, that has been engaged to provide Consulting Services for the preparation or implementation of an assignment shall be disqualified from subsequently providing Goods, Services, Real Estate or Works (other than a continuation of earlier Consulting Services) for the same assignment.

3.6 In addition to the foregoing paragraphs, Vendors of a particular country or Goods and Work materials manufactured in a particular country may be declared ineligible if:

a) as a matter of law or official regulation, the country where the contract is to be performed prohibits commercial relations with that particular country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of Goods, Service, Real Estate and Works, or

b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the country where the contract is to be performed prohibits any import of Goods from, or payments to, that particular country or Vendor.

4. Procurement Ethics, Integrity, Anti-Corruption and Fairness

4.1 Bank staff engaged in procurement activities shall maintain the highest standards of ethical conduct, integrity and complete impartiality throughout the procurement process. Save as provided in the Code of Conduct, Bank staff involved in any aspect of procurement are prohibited from accepting any offers of gifts, hospitality or other similar favors from Vendors, Bidders and/or Contractors and shall also avoid all situations in which they would or could appear to have a conflict of interest. Failure of Bank staff to comply with the Bank's ethical standards and Code of Conduct applicable to Bank staff constitutes misconduct and may lead to disciplinary action.

4.2 In the event that there is any doubt regarding the meaning or application of paragraph 4.1, Bank staff shall declare any actual or potential conflict of interest and seek guidance from the Ethics Office unless it involves fraudulent or

corrupt practices in which case the matter shall be referred to the Integrity and Anti-Corruption Department of the Bank.

4.3 During the pre-solicitation phase, Bank staff shall not allow individual Vendors access to information, which will give them a competitive advantage relating to a particular procurement.

4.4 During the solicitation phase, Bank staff shall not provide information on the particular acquisition to any individual Vendor on a preferential basis; all relevant information shall be provided to all potential bidders at the same time and on the same basis.

4.5 During the evaluation and contract award phase, Bank staff shall not provide information relating to the evaluation of submission and decision to award to any Bank staff or other person not involved in the procurement.

4.6 The Bank requires that Bidders, Contractors and their subcontractors observe the highest standard of ethics during the procurement and execution of such contracts.

4.7 Any allegation that a Vendor, Bidder, Contractor or subcontractor has engaged in a corrupt, fraudulent, collusive, coercive or obstructive practice with respect to its dealings with the Bank shall be immediately referred to the Integrity and Anti-Corruption Department for investigation. Such investigations may result in the debarment of the Vendor pursuant to the debarment policy of the Bank.

4.8 The Bank will reject a submission if it determines that the Bidder, or any of its personnel, agent, consultant, subcontractor or service provider, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question. The Bank will sanction a Vendor, Bidder or Contractor, at any time, in accordance with the prevailing Bank's sanctions procedures, including by publicly declaring such entity ineligible either indefinitely or for a stated period of time.

4.9 Bidders, Vendors and Contractors that offer any gift of any value to staff members will be considered to be influencing the procurement process and the Bank may impose sanctions on such Bidders, Vendors and Contractors by declaring them ineligible from competing for further Bank contracts, either indefinitely or for a stated period of time.

- 4.10 The Bank will include a provision in solicitation documents and in contracts that Bidders, Contractors and Vendors shall permit the Bank to inspect their records as well as records relating to the bid submission and performance of the contract and to have them audited by auditors appointed by the Bank.

5. Social and Environmental Considerations

- 5.1 The Bank shall manage its business in an environmentally and socially responsible manner. The Bank will consider and incorporate social and environmental issues into procurement decisions at various stages of the procurement process, including planning, requirement definition, evaluation and contract management.

6. Delegation of Authority

- 6.1 Procurement actions of the Bank shall be initiated and approved in accordance with the Delegation of Authority Matrix of the Bank, as amended from time to time.
- 6.2 The value of procurement for the purposes of determining the method of procurement and required level of approval shall be the overall cost of such procurement throughout the duration of the contract including any envisaged renewal periods or other options, if applicable. There shall be no splitting of procurement into two or more parts in order to circumvent obligations pursuant to this Directive.

II. Institutional Framework for Corporate Procurement

7. Vice-President, Corporate Services

- 7.1 The Vice-President, Corporate Services (CSVP) shall have overall responsibility for formulating the Corporate Procurement Policy and issuing the Corporate Procurement Manual.
- 7.2 The Vice-President, CSVP shall monitor the implementation of this Directive and the Corporate Procurement Manual, and shall report twice a year to the President on the overall status of the Bank's corporate procurement activities.
- 7.3 The Vice President, Corporate Services shall prepare a report on the corporate procurement activities of the Bank. The report is presented by Management to the Board of Directors on an annual basis.

8. Vice Presidents, Directors and Heads of organizational units reporting directly to the President

- 8.1 The Vice-Presidents, Directors and Unit Heads reporting directly to the President, are responsible for ensuring the effective, long and short term planning, implementation and management of corporate procurement carried out on behalf of departments or units within their responsibility.

9. General Services and Procurement Department

- 9.1 The General Services and Procurement Department is a 'safeguard' department with the mandate of overseeing the corporate procurement activity of the Bank. In particular, the roles and responsibilities include the formulation and review of policies, procedures, standard documents, and practices. The department implements capacity building programs and systems to effectively and efficiently support the corporate procurement activities of the Bank.

10. External Offices

- 10.1 The Bank's External Offices are an integral part of the Bank's corporate procurement framework and are entrusted, subject to the provisions of the Delegation of Authority Matrix, as amended from time to time, with operational and oversight responsibilities for the procurement activities required to support and maintain their respective offices.

11. Oversight Committees

- 11.1 The *Purchasing Committee* is responsible for the review and approval of corporate procurement actions in accordance with Presidential Directive No 06/2002 and the Delegation of Authority Matrix, as amended from time to time.

- 11.2 The *Information Systems Steering Committee (ISSC)* is responsible for reviewing and approving the Bank's Information Systems priorities, plans and programs prior to the initiation of required procurement actions.
- 11.3 The *Capital Investment Program Steering Committee (CIPSC)* is responsible for defining and approving the Bank's capital investment priorities, plans and programs prior to the initiation of required procurement actions.
- 12. Segregation of Duties**
- 12.1 The Bank shall ensure that the following specific functions relating to procurement are kept separate:
- a) the authority to enter into contract;
 - b) the authority to certify the receipt of Goods, Services, Real Estate or Works pursuant to a procurement transaction; and
 - c) the authority to issue payments.
- 12.2 Bank staff with delegated procurement authority shall be responsible for:
- a) selecting the appropriate procurement strategy;
 - b) designing the procurement;
 - c) the conduct of all subsequent actions leading to the issuance and signature of a contract; and
 - d) contract administration.
- 12.3 All other staff or organizations that require the acquisition of Goods, Services, Real Estate or Works are responsible for the preparation of the statement of work and submission evaluation criteria and subsequently managing the performance of the contract.

III. Procurement Planning, Vendor Registration and Advertising

13. Annual Corporate Procurement Plan

- 13.1 Each user department and External Office shall prepare an annual procurement plan, which shall include all of the planned procurements identified by their organizational unit.
- 13.2 The General Services and Procurement Department shall consolidate those individual plans into a Bank-wide Annual Corporate Procurement Plan. The General Services and Procurement Department will extract from the Annual Procurement Plan, all planned procurements with an estimated value exceeding UA 50,000 and shall post the extract on the Bank's website at the beginning of the fiscal year, provided that the information would not compromise the interests of the Bank.
- 13.3 The General Services and Procurement Department in consultation with user departments shall update the Annual Procurement Plan and the website extract every six months.

14. Vendor Registration

- 14.1 Any eligible Vendor interested in doing business with the Bank shall register with the Bank through the Bank's website at www.afdb.org or, in situations where there is no internet accessibility, by completing the Vendor Registration Form.

15. Market Knowledge and Advertising

- 15.1 Before issuing solicitations, the Bank shall ensure that there are viable Vendors in the marketplace to meet the specific requirement.
- 15.2 The Bank shall advertise on the Bank's website solicitations for all open procurement opportunities with an estimated value exceeding UA 50,000.
- 15.3 The Bank may take additional measures to ensure that its contract opportunities are widely publicized, provided that such measures are not taken and do not become public prior to the advertising of an opportunity on the Bank's website, and that no substantive advantage or disadvantage results to any particular vendor.

IV. Solicitation Process and Documents

16. Methods of Procurement

- 16.1 The Bank's default procurement method is open competition using a variety of solicitation methods such as Request for Proposal, Request for Quotation and Invitation to Bid.
- 16.2 All procurements for Goods, Services, Real Estate or Works estimated to be in excess of UA 50,000 shall be awarded as a result of open competition.
- 16.3 All procurements for Goods, Services, Real Estate or Works estimated to be between UA 10,000 and UA 50,000 shall be awarded as a result of a restricted competitive process, and when possible, given consideration of the economy and efficiency of the process and market conditions, shall be awarded as a result of open competition.
- 16.4 The Bank shall maintain a corporate purchasing card for use as the default method of procurement for low value transactions.
- 16.5 Notwithstanding Articles 16.1 and 16.2, direct contracting with a single Vendor without competition may be approved in any of the following circumstances:
- a) where a procurement is a continuation of an earlier contract that ended in the previous three (3) months, and the value of the new contract does not exceed thirty (30) percent of the earlier contract value provided that the Bank is satisfied with the performance under the previous contract and has justified that no advantage would be obtained by further competition; and that there shall be only one such follow-on contract for any requirement;
 - b) where the Goods, Services, Real Estate or Works are available only from a particular Vendor; or a particular Vendor has exclusive rights in respect of required Goods, Services, Real Estate or Works and no reasonable alternative or substitute exists or can be reasonably obtained;
 - c) where the Bank, having procured Goods or related Services manufactured or otherwise created by a particular Vendor, determines that additional procurements are required from that specific Vendor because of the need for compatibility with existing Goods or Services; taking into account the effectiveness of the original procurement in meeting the needs of the Bank, the size of the proposed procurement in relation to the original procurement, the reasonableness of the price and the unsuitability of alternatives to the Goods or Services in question;
 - d) where there are inadequate responses to a solicitation and, for which the requirement does not need any further revisions;
 - e) where it is to the advantage of the Bank to acquire required Goods, Services, Real Estate or Works directly from an international organization with a mandate similar to that of the Bank, such as the United Nations or an international development bank, and that has a contract already in place through which the procurement can be realized, provided that the Contractor meets the Bank's eligibility criteria;
 - f) insofar as is strictly necessary when, for reasons of extreme urgency, brought about by events unforeseeable and not attributable to the actions of Bank staff, and the Goods, Services, Real Estate or Works cannot not be obtained in time by means of competition;
 - g) The acquisition, development, production or co-production of mass-media material intended for broadcasting and publicity and public relations cases where the Bank sponsors events ; or
 - h) the procurement amount is less than the threshold amount established in accordance with paragraph 12.2(3)(b) of the Financial Regulations of the Bank.
- 16.6 Full justification and substantiation shall be prepared and approval for the use of direct contracting sought from the relevant authority as per the Delegation of Authority Matrix before undertaking procurement pursuant to Article 16.5.
- 16.7 Where the President has determined that a departure from the requirement of open competition is in the best interest of the Bank, the President or his/her delegate may authorize the direct procurement of Goods, Services, Real Estate or Works or may decide to set parameters for a specific procurement that would be appropriate for a particular marketplace.

V. Requirement Definition and Evaluation Criteria

- 17.1 Requirement definition shall be designed to promote the broadest possible competition to meet Bank requirements, while defining contractual performance required or other requirements for the Goods, Services, Real Estate or Works under procurement. It shall, wherever possible, be expressed in terms of the results to be achieved, rather than how the contractor is to achieve them.
- 17.2 Evaluation criteria shall be designed to ensure that each submission is evaluated fairly, and shall be published for every competitive process. The evaluation criteria shall be objective and measurable and shall be applied exactly as they appeared in the solicitation documents.
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VI. Cooperative Procurement

- 18.1 The Bank may participate in procurement agreements with one or more organizations for the procurement of any Goods, Works, Real Estate and Services when such cooperation represents best value for the Bank. All cooperative procurement shall be conducted in a manner consistent with the Bank's guiding principles of transparency, efficiency, competition and fairness and in compliance with the Bank's eligibility criteria.
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VII. Solicitation Documents and Alternative Submissions

- 19.1 Solicitation documents shall provide potential Bidders all the information necessary to permit them to submit high quality responsive submissions.
- 19.2 In order to promote innovative solutions, the Bank may permit alternative submissions, provided that the solicitation documents clearly indicate when and in what form alternative submissions are allowed, and how they will be considered.
- 19.3 The Bank's official languages are English and French. The solicitation documents shall be issued in either of these two languages. Submissions and any resulting contract shall be written in the language of the solicitation document.
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VIII. Submission Period and Validity

- 20.1 For every competitive process, potential Bidders shall be given sufficient time to encourage effective competition between high quality submissions. The submission period shall be determined with due consideration of the particular circumstances of the procurement sought and the magnitude and complexity of the contract. The submission period shall start from the date when the procurement notice is published on the Bank's website.
- 20.2 Bidders' submissions shall be valid for a minimum period specified in the solicitation documents, which shall be sufficient to enable the Bank to complete the evaluation and to award the contract. The Bank may request an extension to the validity period in writing from all Bidders before the expiration date. Where an extension is requested, Bidders shall not be permitted to change the quoted price or other conditions of their submission.

IX. Financial Measures

- 21.1 Bid and performance security shall be required when the Bank deems it necessary to protect its interests. The amount and form of any such security requirement shall be included in the solicitation documents.
- 21.2 Where the Contractor is expected to make up-front investments towards the performance of a contract, the solicitation documents may provide for an advance payment by the Bank against a duly executed and valid financial guarantee received from the Vendor's bank or an approved insurance company acceptable to the Bank. Any advance payment for mobilization and similar expenses, made upon signature of a contract for Goods, Services, Real Estate and Works shall be directly related to the estimated amount of these expenses.
- 21.3 The Bank shall ensure that Contractors carry adequate insurance coverage to protect the Bank's interests during the execution of contracts. Such insurance shall ensure both the uninterrupted performance of the contract by the Contractor, and that the Bank shall not be exposed to financial loss due to actions, errors or omissions by the Contractor.

X. Solicitation Process and Contract Award

22. Clarifications and Amendments to Solicitation Documents

- 22.1 During the solicitation period, potential Bidders shall have the right to seek clarifications of or changes to the solicitation document, provided that such requests are received by the Bank in writing and within a time period set out in the solicitation documents.
- 22.2 The Bank shall respond to such requests with complete and accurate information communicated simultaneously to all potential Bidders in sufficient time before the closing date to enable Bidders to take appropriate action.
- 22.3 The Bank shall, whenever possible, accept suggestions for changes when the changes will result in an improvement to the competitive process, provided that the changes will not give unfair advantages to any particular Bidder.

23. Receipt and Opening of Submissions

- 23.1 Bidders shall deliver their submissions by mail or by hand. Bidders may use electronic systems only when provided for in the solicitation documents. The Bank shall ensure that all submissions received before the submission closing deadline are kept in a secured place with restricted access.

- 23.2 Submissions received after the deadline set in the solicitation documents shall be rejected by the Bank.

- 23.3 Submissions shall be opened and documented as soon as possible after the submission closing deadline. The opening record of submissions for open competitions shall be made available as soon as possible on the Bank's website.

- 23.4 Bidders shall not be permitted to alter submissions after the closing deadline.

24. Evaluation of Submissions

- 24.1 The evaluation shall start with an examination to determine the eligibility and qualification of Bidders, the legal validity of submissions and the completeness of the required documents, including bid security where required.

- 24.2 The evaluation process shall continue with the technical evaluation, which determines that the submissions are responsive based on evaluation criteria stipulated in the solicitation document. The technical evaluation shall be completed and documented before a Bidder's financial proposal is considered.

- 24.3 The Bank may request substantiation or clarification of any information contained in a submission. Where a Bidder does not provide the requested information, the submission shall be evaluated as it was presented.

24.4 The Bank may verify the legal, managerial, financial and technical capabilities of the winning Bidder to ensure that the Bidder will be able to perform the contract successfully.

25. Cancellation of a Procurement Process

25.1 The Bank may cancel a solicitation at any time during the solicitation and evaluation process and prior to contract award, without recourse or any obligation to compensate Bidders for the cost incurred in participating in the solicitation process.

25.2 A decision to cancel a solicitation process shall be communicated as soon as possible to the Vendors.

26. Award of Contract and Debriefing

26.1 As soon as the evaluation process has been completed and confirmed as compliant with all of the requirements of the solicitation document such that the recommendation for award of contract is known, the Bank shall issue a notice of consideration for award to the successful Bidder and regret letters to unsuccessful Bidders informing them about the decision.

26.2 Unsuccessful Bidders may request the Bank to debrief them within seven (7) days from the receipt of regret letters. The debriefing shall take

place within seven (7) days upon receipt of the Bidder's request.

26.3 The purpose of the debriefing is to inform the Bidder of the strengths and weaknesses in its submission. The Bank shall not discuss the following during debriefings:

a) Confidential or other proprietary information or commercially sensitive information (such as trade secret) including the methodology or approach of other Bidders;

b) Financial or cost information about other Bidders;

c) Evaluation scoring or the ranking of other Bidders; or

d) Information contained in other Bidders' submissions.

26.4 The Bank shall publish all contract awards valued over UA 50,000 on the Bank's website within thirty (30) days of the signature of the contract, provided that such publication shall not compromise the financial, corporate and security interests of the Bank.

26.5 The Bank may not accept any Goods, Services, Real Estate or Works without a valid contract.

XI. Contract Management

27. Contract Management and Modifications

27.1 The Bank shall ensure that every contract is properly managed and monitored to ensure its successful performance and completion according to the agreed contractual terms and conditions.

27.2 A contract may be modified to ensure that it accommodates and responds to changes in the Bank's operating requirements. Prior to modifying a contract, the Bank shall be satisfied that no material advantage would be obtained by undertaking a new procurement.

27.3 A contract modification shall be subject to applicable prior approval(s), as set out in the Delegation of Authority Matrix, as amended from time to time.

28. Contractor Performance

28.1 For every contract, the Bank shall evaluate the Contractor's performance during contract execution and at contract closure.

28.2 As part of the contract management process, the Bank and the Contractor shall exchange regular written feedback on their respective performance to ensure smooth execution of the contract and timely remedial action where performance is less than satisfactory.

28.3 The General Services and Procurement Department shall maintain a contract management system to document, monitor and evaluate Contractor performance over time.

XII. Dispute Resolution

29. Contract Disputes

29.1 Every contract issued by the Bank shall contain provisions setting out a dispute resolution mechanism.

30. Award Protest Procedures

30.1 Award protest procedures are available only to Bidders who participated in the competitive procurement process and who were not awarded a contract.

30.2 Award protest procedures are not available to Vendors who did not participate in the procurement process; non-responsive or late submissions; or cancellation of the procurement process by the Bank.

30.3 The Bank's response to all protests, regardless of who they are addressed to, will be prepared and executed by the General Services and Procurement Department.

30.4 An unsuccessful Bidder who wishes to protest an award must inform the Director of the General Services and Procurement Department in writing within seven (7) days (the "Notice Period") from receipt of the Bank's regret letter or the Bank's debriefing referred to in paragraph 26.2, whichever is earlier. Protest notifications must include the following information:

- a) The protestors name, postal address, telephone number, fax number, and email address;
- b) The Bank tender reference;

c) A detailed statement of grounds for the protest and an explanation on how the protestor was prejudiced; and

d) Copies of relevant documents supporting the protestor's statement.

30.5 Protest notifications submitted after the Notice Period or that do not indicate a basis for the protest will not be considered.

30.6 Upon receipt of a written protest from an unsuccessful Bidder, the Director of General Services and Procurement Department shall, after consultation with the General Counsel and Legal Services Department:

a) Provide the protestor with a written acknowledgement within five (5) working days;

b) Initiate a review of the protestor's allegations; and

c) Following the conclusion of the review, notify the protestor in writing of the decision and the basis upon which it was made.

30.7 The decision of the Director of General Services and Procurement Department will be final and conclusive unless, within seven (7) working days from the date of receipt of the decision, the protestor files a written appeal to the Vice President, Corporate Services. The Vice-President, Corporate Services will examine the appeal after consultation with the Director of Procurement and Fiduciary Services Department. The determination by the Vice-President, Corporate Services will be final and conclusive.

XIII. Final Provisions

31.1 Nothing in this Directive shall be construed as or constitute a waiver, renunciation or other modification of any privileges, immunities and exceptions accorded to the Bank under the

Agreement Establishing the African Development Bank, international conventions or any other applicable law.

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