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27/08/2021

SOUTHERN AFRICAN DEVELOPMENT COMMUNITY SECRETARIAT

SADC Procurement and Grants Guidelines

August 2021

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Glossary of Terms

Accounting Officer” refers to the Executive Secretary’s overall responsibility on financial administration of SADC resources. The Accounting Officer may appoint or delegate to, one or more deputy Accounting Officers to discharge functions on matters of financial administration in place of the Accounting Officer.

“Addendum” means the document through which significant modification to the terms and conditions of a document or contract are introduced.

“Administrative Order”: means a simplified form of addendum through which minor modifications to the terms and conditions of a contract are introduced or through which administrative instructions are given to the contractor.

“Advance Payment Guarantee”: means a precautionary measure by which the Contracting Authority requires a Contractor, upon signature of the contract, to provide a bank guarantee against an advance payment under the contract.

“Ancillary services” means all related services which the Contractor is required to implement in a contract for Goods in addition to the delivery of the supplies procured. Where they are necessary they are specified in the contract and may include for example services such as installation, unloading, testing, commissioning, provision of expertise, supervision, maintenance, repair, training and other such obligations connected with the goods to be provided.

“Assessor” means an independent individual expert with an in-depth knowledge of the issues covered by a grant programme who is engaged by the Contracting Authority to carry out a detailed written assessment of a grant application using published criteria. He/she does not have voting rights, but may attend the Tender Evaluation Committee meetings if and when invited.

“Best value for money” means “most economically advantageous offer”, that giving maximum value for money over the lifetime of the contract for the goods, services or works delivered thereby, taking into account all material matters, visible or invisible, including but not being limited to quality and price.

“Bid” means a written and formal offer for goods, works or services.

“Bid security” means a security provided by the bidder guaranteeing the commitment to sign the contract in case of award. In case of rejection to sign the contract while the bid is still valid, the bid security is forfeited.

“Bidder” means an economic operator submitting a bid, proposal or quotation; willing to conclude a contract with the Contracting Authority.

“Bidding Documents” means documentation containing all the information needed to prepare and properly submit a bid.

“Bill of quantities” means the document containing an itemized breakdown of the works to be carried out in a unit price contract, indicating a quantity for each item and the corresponding unit price.

“Board of Auditors” means the body of External Auditors established as per the requirement of Article 29 of the Treaty.

“Budget breakdown” means the schedule which breaks down the contract value according to the different items or services, stating out fee rate, unit prices and lump sums per item provided.

“Calls for Proposals” means a public invitation setting thematic and financial frame that indicates which problem should be tackled and which budget is available to meet this challenge. Organisations and companies that intend to help solve a part of this problem, can submit a project proposal (Application) during the period that the call for proposals is open.

“Candidate” means any legal person that has sought an invitation to take part in a restricted or negotiated procedure.

“Commercial warranty” means the warranty the manufacturer provides for a defined period that the supplies will be free from structural defects due to substandard material or workmanship, under conditions of normal commercial use and service. The commercial warranty should not be confused with the warranty period of the contract.

“Consortium” means a grouping of eligible natural and legal persons or public entities which submits a tender or a grant application, under a bidding procedure or in response to a Call for Proposals. It may be a permanent, legally established grouping or a grouping which has been constituted informally for a specific tender procedure or Call for Proposals. All members of a consortium (i.e., the leader and all other partners) are jointly and severally liable to the Contracting Authority.

“Consultancy Services” or **“Services”** means a wide variety of services such as advisory services; research and research investigation, management; engineering; construction supervision; design and architectural services; training and training like education services; audit; financial (other than banking operation); legal and procurement services. It includes also feasibility studies, social and environmental studies; and identification, preparation and implementation of projects services or any other services in which the “human factor” is determinant for the output of the contract. By extension, the operational costs of implementation of the project, including research, organization or participation in workshops.

“Contract” means an agreement between the Contracting Authority and an economic operator resulting from the application of the appropriate and approved procurement procedures or proceedings, and shall be concluded in the pursuance of the bid award decision.

“Contracting Authority” means the entity signing the contract. It might be the Procuring Entity or a different entity, especially in cases of secondary procurement.

“Contribution in kind” means provision of goods or services to or by the grant beneficiary free of charge. Contributions in kind does not therefore involve any expenditure for the grant beneficiary and are not entered in its accounts.

“Conflict of interest”, in the context of these Guidelines, means that an economic operator shall not be allowed to get engaged in any procurement or grant process for delivery of any kind of services, goods, works or grants that would be in conflict with their prior or current engagement/obligations to SADC or other clients, or that may place them in the position of being unable to carry out the contract in the best interest of the SADC Secretariat and/or the Contracting Authority.

“Contractor” means an economic operator entering into a contract with the Contracting Authority following a procurement procedure. This term shall apply irrespective of the category of procurement (i.e.: services, goods or works), which is subject of the contract.

“Cool-Off Period” means a period between notification of award and contracting during which bidders or grant applicants not recommended for award may seek clarification from the Contracting Authority.

“Cost-plus contract” means a contract where the contractor, when finished the agreed-upon works, receives compensation equal to expenses plus profit.

“Council of Ministers” means the governing body of the SADC Secretariat, established by Article 9 of the SADC Treaty.

“Day” means a calendar day unless specified otherwise.

“Defects liability period” means the period stated in the contract immediately following the date of provisional acceptance, during which the Contractor is required to complete the works and to remedy defects or faults as instructed by the Supervisor.

“Direct award” means the award of one or more grants without organising a call for proposals. A direct award is only appropriate under certain, special circumstances and must always be subject to negotiations that are documented in the Negotiation Report.

“Drawings” means the designs provided by the Contracting Authority and/or the Supervisor, and/or drawings provided by the Contractor and approved by the Supervisor, for the carrying out of the works, the provision of goods or the performance of services.

“E-Procurement” means a dedicated system permitting bidders to submit bids by electronic means.

“Economic operator” means, according to the context, any natural or legal person, public entity or joint venture/consortium of such persons and/or bodies, wishing to or entering into a contract with the Contracting Authority following a procurement procedure.

“Eligibility Criteria” means the criteria where bidder needs to comply with the requirements of the technical and financial thresholds, as well as rules of origin. Depending on the type of procurement, proofs may be sought earliest at the prequalification stage, while for all types of procurement it will not be later than the contracting stage.

“Emergency” means the circumstances which are urgent, may cause loss of property, life or jeopardize SADC Secretariat interests are unforeseeable and are not caused by any dilatory conduct, or bad management, of the Contracting Authority.

“Equipment” means machinery, apparatus, components and any other articles intended for use in the works.

“Evaluation Committee” means committee made up of an odd number (at least three) of voting members (the evaluators) with the technical and administrative expertise necessary to give an informed opinion on tenders or grant applications. The Chairperson of the Evaluation Committee will be one of the evaluators. Evaluation Committee will be assisted by the Secretary.

“Ex-Ante Verification” means compliance review of procurement processes and quality control of all procurement related documentation by designated personnel.

“Executive Secretary” means the Chief Executive Officer of SADC appointed under Article 10 (7) of the Treaty.

“Expenditure verification” means both the process and the report by which an auditor verifies according to agreed-upon procedures contained in the relevant Terms of Reference that the Financial Report submitted by the contractor/beneficiary can be reconciled to the latter’s accounting and bookkeeping system and to underlying accounts and records. The auditor also verifies that the contractor/beneficiary complies with the relevant contract provisions.

“Expert” means a natural person/consultant employed/contracted by an eligible contractor, or where applicable subcontractor, engaged to provide the expertise required for the proper performance of a contract.

“External Tender Committee”: means the Committee appointed yearly by the Executive Secretary from TROIKA Members and entrusted with the responsibility of advising the Accounting Officer on all procurement as per thresholds defined in SADC Procurement and Grants Guidelines.

“Fee-based contracts,” means a service contract under which the services are provided on the basis of fixed fee rates for each working day worked by consultants. These are activity-based contracts, which might be used for technical assistance and supervision.

“Final Acceptance” means that the contractor has completed its obligations.

“Final acceptance certificate” means a certificate issued by the Project Manager to the contractor at the end of the defects liability period or warranty period stating that the contractor has completed its obligations.

“Final beneficiaries” means those who will benefit from the project in the long term at the level of the society or sector at large.

“Financial offer” means the part of a bid/application, which contains all the financial elements of the bid/application, including its summary budget and detailed price breakdown or cash-flow forecast required by the Bidding Documents/Guidelines for Applicants.

“Force Majeure”, in the context of these Guidelines, means an exceptional event or circumstance:

- a) which is beyond the control of the party(ies) involved;
- b) which could not reasonably have been foreseen, avoided and overcome;
- c) not substantially attributable to the party(ies) involved.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (c) above are satisfied:

- a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- b) rebellion, terrorism, sabotage by persons other than the SADC Secretariat/Contracting Authority’s and/or Economic Operator’s personnel, revolution, insurrection, military or usurped power, or civil war,
- c) riot, commotion, disorder, strike or lockout by persons other than the SADC Secretariat/Contracting Authority,
- d) presence of munitions of war, explosive materials, ionising radiation or contamination by radio-activity, explosives, and
- e) natural catastrophes such as floods, earthquake, hurricane, typhoon or volcanic activity.

“Framework Contract” means an agreement between the Contracting Authority and one or more contractors, which sets out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the agreement.

“Fraud and Corruption”, in the context of these Guidelines, means one or more of the following instances:

“coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

“collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

“corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

“fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefits or to avoid an obligation;

“obstructive practice”

- deliberately destroying, falsifying, altering or concealing evidence to the investigation or making false statements to investigators in order to impede the SADC Secretariat’s, governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
- acts intended to impede the exercise of the SADC Secretariat’s or governmental inspection and audit rights.



“General conditions of contract” means the general contractual provisions setting out the administrative, financial, legal and technical clauses governing the implementation of all contracts of a specific type. There are general conditions for goods, services and works.

“General Damages” means damages which have not been agreed beforehand by the parties and awarded by a court or arbitration tribunal, or agreed between the parties, as a compensation payable to the party for a breach of the contract by the other party.

“Global price service contract” means a service contract under which the services provided are paid on the basis of the delivery of the specified outputs (result based contracts). These are commonly used for public relations contracts, studies, communication campaigns, etc.

“Goods contract” means a contract covering the purchase, leasing, rental or hire purchase, with or without option to buy, of products. A contract for the supply of products and, incidentally, for siting and installation shall be considered a supply contract.

“Grant” means a direct payment of a non-commercial nature by the Contracting Authority to the Grant Beneficiary in order to implement an operation (or in some cases to finance part of its budget) that is of joint interest to SADC and Grant Beneficiary.

“Grant Agreement” means a form of contract used between the Contracting Authority and the Grant Beneficiary.

“Grant Beneficiary” means a beneficiary responsible for implementing the action and the one that owns the results of it. By contrast, under a procurement contract, it is the Contracting Authority who owns the results of the action.

“Grant programme” means a programme which determines the objectives and scale of assistance in a form of grants for operations promoting SADC policy objectives.

“Guidelines for Applicants” means a document explaining the purpose of a call for proposals for grants. It sets out the rules regarding who may apply, the types of operation and costs which may be financed and the evaluation criteria. It also provides practical information on how to complete the application form, what documents must be annexed and rules and procedures for applying.

“Implementation period” means the period from effective date of the contract until final payment for services, or until release of the performance bid after final acceptance for goods and works.

“In writing communication” means a communication either hand-written, typed or printed.

“Incidental expenditure or Reimbursables” means a provision covering the ancillary and exceptional eligible expenditure incurred under a service contract. The type of eligible expenditure is specified in each contract. It cannot be used for costs which should be covered by the Consultant as parts of its fees.

“Internal Tender Committee”: means the Committee appointed yearly by the Executive Secretary from staff within the Secretariat and entrusted with the responsibility of advising the Accounting Officer on all procurement as per thresholds defined in SADC Procurement and Grants Guidelines and their related submissions.

“International Restrictive Bidding” means a competitive procurement method which entails a pre-qualification process open to all economic operators as the first step, and an invitation to bid, open only to the prequalified bidders, as the second step.

“Invitation to Bid” means a letter sent to short listed candidates in a restricted or negotiated procedure inviting them to submit a Bid.

“Key expert” means an expert who is defined as instrumental in the Terms of Reference and who is subject to evaluation as part of the Bid.



“Lead applicant” means in a grant the member of the consortium who acts as coordinator of the activity and signs the contract with the Contracting Authority representing itself and the rest of the beneficiaries.

“Limited Bidding” means a variation of Restricted Bidding whereby the list of companies to be invited to submit bids is not determined by prequalification but through market research.

“Liquidated damages” means damages which have been agreed beforehand by the parties and recorded in the contract as being a genuine estimate of the loss suffered by the injured party (i.e. compensation payable by the contractor to the Contracting Authority for failure to complete the contract or part of the contract within contractual periods, as well as the compensation payable by the Contracting Authority to the Contractor for failure to pay within the contractual period, calculated according to the conditions of contract.

“Local Restricted Bidding” means a procurement method open to participation on equal terms by all providers through advertisement of the procurement on the SADC website and in a newspaper of wide circulation in the specific country or countries where services, works or goods will be rendered or consumed.

“Lump Sum Amount” means a single large amount or payment made all at once, in lieu of several smaller payments made at regular intervals.

“Lump sum contract” means a works contract under which the Contracting Authority agrees to pay the contractor a specified amount for completing the work without requiring a cost breakdown.

“Most economically advantageous Bid” means the Bid judged the best in terms of the criteria laid down in the bidding documents, e.g. quality, technical properties, aesthetic and functional qualities, after-sales services and technical assistance in relation to the price offered. It is often referred to as the best value for money.

“Negotiated Procedure” means a procurement method for acquisition of goods, works and services in which one or several economic operators are invited to submit a technical and financial proposal and negotiate the technical, financial and commercial conditions of a contract.

“Non-key expert” means an expert who is not defined as instrumental in the Terms of Reference and who is approved by the Project Manager by an Administrative Order during the implementation of the Contract.

“Observer in an Evaluation Committee” means an individual with an in-depth knowledge of technical, administrative, financial and/or procurement matters, who will provide independent assessment and/or advice on specific matters.

“Open Bidding” means a procurement method for acquisition of goods, works and services which involves an invitation to submit a bid in a competitive bidding process to all interested Economic Operators.

“Operating Grant” means a direct financial contribution, by a way of budgetary support, in order to finance the functioning of an entity.

“Performance Security” means a precautionary measure by which Contracting Authority requires a Contractor, upon signature of a SADC Secretariat contract, to provide guarantees to fulfil their contractual obligations as stipulated in contract. The Contractor, together with the contract signed, will provide the Performance Security. The Performance Security may be requested to contractors for goods, services and works but never for grantees. Performance security is 10% of the contract.

“Post-qualification” means a stage where the bidder undergoes verification of compliance with eligibility and qualification criteria as per the bidding documents/call for applications.

“Price” means the amount as money asked for or given in exchange for a service, good(s) or work.



“Price schedule” means the completed schedule of prices, including the breakdown of the overall price, submitted by the contractor with his Bid, modified as necessary and forming a part of the unit price contract.

“Procurement” means the legal acquisition by any means of goods, works or services.

“Procurement method” means the procedures through which the Contracting Authority purchases services, goods and works.

“Procurement Procedure under Multiple Framework Contracts” means a limited bidding procedure to be used with contractors with whom the Contracting Authority has signed a framework contract. A Multiple Framework Contract is an agreement between the Contracting Authority and several contractors, with the purpose to establish the terms governing specific contracts which may be awarded during given period. The terms and conditions of the contract are mainly related to the duration, subject, price, implementation rules, quantities, delivery time, scope of services and payment rules.

“Procuring Entity” means the SADC Secretariat structure designated by the Accounting Officer to commit funds and implement programmes/project/activities on its behalf.

“Project Manager/Task Manager” means the person responsible for managing and monitoring the implementation of a project on behalf of the Contracting Authority, as well as issuing the Administrative Orders for projects on behalf of the Contracting/Procuring Entity.

“Proposal” means the same as the Bid (see above).

“Provisional Acceptance” means that the Contracting Authority has accepted the goods or works but performance needs to be verified or confirmed under operational conditions within an agreed period, followed by the Final Acceptance.

“Provisional Acceptance Certificate” means the statement issued by the Project Manger to support Provisional Acceptance of goods or works.

“Public contracts” means those contracts of public nature concluded in writing between one or more Economic Operators and the Contracting Authority in order to obtain, against the payment of price paid in whole or in part, the supply of goods, the implementation of works, the provision of services or the attribution of grants. Such contracts comprise works, services, goods and grants.

“Regional Preference” means an evaluation method through which the Procurement Entity grants bidders that are offering services, goods and works originating from the SADC Countries an evaluation advantage over the bidders offering similar services, goods and works originating from outside the SADC Countries.

“Regional Restricted Bidding” means a competitive procurement method which entails a pre-qualification process including the publication at regional (SADC) level, as the first step, and an invitation to bid opened only to the prequalified bidders, as the second step.

“Responsive Bid” means a bid that is in compliance with administrative requirements and eligibility requirements, passes a threshold on technical compliance and is within the maximum budget available.

“Restricted Bidding” means a procurement method whereby the first step is pre-qualification and the second step an invitation to bid to pre-qualified bidders only.

“Retention Money Guarantee” means a precautionary measure by which the contracting authority requires a works contractor (not used for services, goods or grants), upon signature of a SADC contract, to provide a guarantee to fulfil its contractual obligations during the period between provisional acceptance and final acceptance of the works (usually one year). It is a percentage (often 5%) of the amount certified as due to the contractor on an interim, that is deducted from the amount due and retained by the contracting authority.

“SADC” means Southern African Development Community and its institutions established by the Treaty.

“**SADC Expert**” means a consultant contracted for reasons of absence of in-house competence and experience to carry out the assignment and/or there is no sufficient in-house expertise. SADC Expert is implementing day-to-day activities as any other SADC staff member.

“**SADC Secretariat**” means the principal executive institution of SADC responsible for, amongst others, the strategic planning and management of SADC programmes, implementation of decisions of SADC policy organs and institutions, such as, Summit, Council and the Troikas.

“**SADC Treaty**” or “**Treaty**” means the treaty establishing SADC, as amended.

“**Site**” means the places provided by the Contracting Authorities where the works are to be carried out and other places stated in the contract as forming part of the site.

“**Solicitation Document**” means the documents issued by the SADC Secretariat to inform potential bidders about its procurement requirements. It includes Bidding Documents, Requests for Proposal, Request for Services, Request for Expression of Interest, etc.

“**Special Conditions**” means the conditions laid down by the Contracting Authority as integral part of the Bid or Guidelines for Applicants including amendments to the General Conditions, clauses specific to the contract and the Terms of Reference or Technical Specifications.

“**Staff**” means any personnel, employee or expert working for a contractor regardless of their contractual link.

“**Study contract**” means a service contract between the Contracting Authority and the Contractor concerning e.g. identification and preparatory studies for projects, feasibility studies, economic and market studies, technical studies, evaluations and audits.

“**Successful Applicant**” means the applicant recommended for award of Grant Agreement.

“**Successful Bidder**” means the Bidder recommended at the end of a bidding procedure for the award of a contract.

“**Supervisor**” means the legal or natural person responsible for monitoring the implementation of a works contract on behalf of the Contracting Authority and/or the Procuring Entity.

“**Supervisor’s representative**” means any natural or legal person designed by the Supervisor as such under the contract, and empowered to represent the Supervisor in the performance of its functions and in exercising such rights and/or power as have been delegated to it. In this case references to Supervisor will include its representative.

“**Supplier**” means any legal person or public entity or consortium of such persons and/or bodies offering goods/equipment.

“**Target groups**” means the groups/entities that will be directly positively affected by the project at the project purpose level.

“**Taxes**” means indirect taxes such as value added taxes, customs and import duties, other fiscal charges and duties.

“**Technical Assistance contract**” means contract between a service provider and the Contracting Authority, under which the service provider exercises an advisory role, manages or supervises a project, provides the experts specified in the contract.

“**Technical Bid**” means the part of a Bid which contains all non-financial elements of the Bid, i.e. all elements other than the financial bid which are required by the Bidding Documents. The Technical Bid for services must not contain financial indications.

“**Technical Specifications**” means the document approved by the Contracting Authority setting out the requirements and/or objectives in respect of the provision of goods or works, specifying, where relevant, the methods and resources to be used and/or results to be achieved.



“Terms of Reference” means the document drawn up by the Contracting Authority setting out its requirements and/or objectives in respect of the provision of services, specifying, where relevant, the methods and resources to be used and/or results to be achieved.

“Threshold” in the context of these Guidelines, means a monetary value which is set in order to determine the procurement method(s) allowed and/or determines the required approvals at different stages of the procurement procedure.

“Time limits” means those periods in the contract which shall begin to run from the day following the act or event which serves as the starting point for those periods. Where the last day of the period is not a working day, the period expires at the end of the next working day.

“Unit price contract” means a works or goods contract in which the price is based on estimated quantities of items included in the project and their unit prices.

“Variant Solution” means a proposal that is alternative to compulsory proposal. When variant solutions are allowed in the bidding documents, the bidder must submit proposal as per the technical specifications, but may as well submit a proposal that varies from the specification, but it results in the same or better outcome.

“Works”: means all work associated with the construction, reconstruction, demolition, repair or renovation of a building, structure or construction, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to works such as drilling, mapping, satellite photography, seismic investigations and similar services provided pursuant to the procurement contract, if the value of those services does not exceed that of the works itself.

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1. INTRODUCTION

1.1. Purpose and Use of the Guidelines

1. These Guidelines develop the contracting/awarding procedures for procurement and grants for all actions financed by/through SADC Secretariat unless otherwise is justified through a Convention, a Contribution Agreement, a Financing Agreement or any other legal instrument.
2. The Guidelines apply both to actions in which SADC Secretariat is the Contracting Authority/Contracting Authority and those in which the Secretariat is financing an external action.
3. The SADC Secretariat may, according to its internal regulations, decide not to use these Guidelines in exceptional cases. Any deviation from these Guidelines requires derogation from the Accounting Officer for the specific case.
4. These Guidelines are intended to provide guidance on the policies and procedures that govern the procurement of goods, works, and services as well as the contracting of grants to all the staff members involved in the various stages of the procurement activities conducted by the SADC Secretariat.
5. Whenever a conflict between the SADC Procurement and Grants Policy and the SADC Procurement and Grants Guidelines occur, the provision of the Policy shall take precedence over the provision of these Guidelines.
6. These Guidelines also detail the procedures through which the SADC Secretariat may select/hire individual consultants. The selection procedure is found in Annex 1.
7. The Guidelines and any subsequent amendments shall be governed by the SADC Secretariat's Financial Regulation and SADC Procurement and Grants Policy.
8. The procedures stated in the Guidelines are designed to ensure that staff of the Contracting Authority can act in accordance with the Procurement Policy and Procurement Guidelines, and assisting those economic operators, natural persons and other entities seeking to enter into procurement contracts or grant agreements with the Contracting Authority, and assure that their bids/applications are considered and assessed in a fair, consistent and transparent manner.
9. When involved in procurement activities or grants for the SADC Secretariat, all staff members are required to comply with the provisions of the Guidelines.
10. At the same time, for those seeking SADC Secretariat procurement or grants opportunities, the Guidelines set out the conditions to be mandatorily fulfilled for being awarded a SADC Secretariat procurement contract or grant agreement. The Guidelines also provide procurement and grant procedures necessary to undertake procurement or grant procedures from the very first steps to the award, signature and implementation of contracts.
11. Non-recurrent purchases under 2,000 US\$ do not fall within the scope of these Guidelines.

1.2. Amendments and revisions to the Guidelines

1. For reasons of efficiency, transparency and, the technology changes over time, the Guidelines shall be subject to review from time to time through an internal consultative process. A relevant committee appointed by the Accounting Officer/Executive Secretary shall coordinate any review process.



2. All amendments shall come into effect only after approval by the Executive Secretary and publication on the SADC Secretariat website.
3. To ensure continuity and predictability of the SADC Secretariat procurement system, any procurement process already started at the time of the revision of the Guidelines shall follow the procurement rules and procedures stipulated in the SADC Procurement and Grants Policy and these Guidelines in force at the time when the specific procurement notice is published.

1.3. Principles

1. All contracting processes conducted by SADC Secretariat, directly or indirectly, shall comply with the following principles, deriving from the ones stated in Article 2 of the SADC Procurement and Grants Policy:
 - (a) **Economy:** Procurement is a purchasing activity whose purpose is to give the SADC Secretariat the best value for money. For complex purchases, value may imply more than just price, since quality issues also need to be addressed. In line with this principle, the lowest initial price may not equate to the lowest cost over the operating life of the item procured. The underline objective remains as the ultimate purpose of sound procurement and grant award, this is to obtain maximum value for money.
 - (b) **Efficiency:** SADC Secretariat procurement system shall be simple and swift, producing positive results without protracted delays. In addition, efficiency implies practicality, especially in terms of compatibility with the administrative resources and professional capabilities of the SADC Secretariat and its procurement staff.
 - (c) **Fairness:** SADC Secretariat procurement system shall be impartial, consistent, and therefore reliable. It shall offer to all interested bidders a level playing field where to compete. This implies, among others, that the procurement processes shall be conducted based on the principles already announced, principles which shall not be artificially discriminatory, that no retrospective decision on procurement processes shall be taken, and that all bidders shall be equally treated prior and during the procurement processes. The Secretariat system for awarding grants must also follow this principle.
 - (d) **Transparency:** SADC Secretariat procurement system shall establish and then maintain, rules and procedures that are accessible and unambiguous. They shall not only be fair, but also they shall be seen to be fair. In this respect, prior and during the bidding process, SADC Secretariat shall ensure equal access to procurement information to all bidders or prospective bidders. The Secretariat system for awarding grants must also follow this principle.
 - (e) **Accountability:** SADC Secretariat procurement system shall hold its staff responsible for enforcing and strictly following the rules. It makes them subject to disciplinary process and sanction, if appropriate, for neglecting or violating those rules. The Secretariat system for awarding grants must also follow this principle.
 - (f) **Ethical Standards:** SADC Secretariat's procurement system shall observe ethical standards -by avoiding inducement, collusion and corruption- which is a key prerequisite for procurement and grants awarding credibility.
 - (g) **Promoting competition:** By using as much as possible bidding procedures and call for proposals, standardized requirements, and non-discriminatory qualification, selection and evaluation criteria.



2. All the actors involved in the contracting process shall have to comply with the ethical clauses of the SADC Procurement and Grants Policy and its annexes.

2. GENERAL RULES

2.1. Definition of procurement and grants

1. Procurement is the acquisition of goods, services or works from an external source via a bidding process (tendering process) which must ensure that those goods, services or works meet the needs of the Contracting Authority in terms of quantity and quality and that they are procured at the best value for money.
2. Grants are direct non-profit financial contributions to a beneficiary in order to finance one or more actions (Action Grants) or the functioning of the institution (Operating Grants) which will be awarded on competitive basis except otherwise contemplated in the legal frame authorising them (Direct Award).

2.2. Ethic clauses

2.2.1. Fraud and Corruption

The SADC Secretariat requires that the procurement processes and the award of contracts shall be free of fraudulent practices, corrupt practices, collusive practices, coercive practices and conflict of interest. For the purpose of these Guidelines, the following concepts are defined:

- (a) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (b) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefits or to avoid an obligation;
- (c) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (d) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (e) “obstructive practice” means:
 - (i) deliberately destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators in order to materially impede the SADC Secretariat, governmental or independent investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (ii) acts intended to materially impede the exercise of the SADC Secretariat or governmental or inspection and audit rights.



2.2.2. Conflict of Interest

A bidder/applicant or a contractor shall not be allowed to get engaged in any procurement/grant process for delivery of any kind of services, goods, works or grants that would be in conflict with their prior or current obligations to other clients, or that may place them in the position of being unable to carry out the contract in the best interest of the SADC Secretariat and of the Procuring Entity/Contracting Authority. Without limitation, economic operators shall not be hired under the circumstances set forth below:

- (a) A contractor that has been engaged by the Procuring Entity/Contracting Authority to provide goods, works, or services for the Institution, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a bidder or a contractor hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates shall be disqualified from subsequently providing goods, works or services resulting from or directly related to the contractor's consulting services for such preparation or implementation.
- (b) Conflict among consulting assignments: neither, economic operators (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the bidder or contractor. For instance, a contractor assisting the Contracting Authority to implement a project shall not be engaged to prepare an independent assessment for the implementation of the same project, or contractors hired to prepare terms of reference for an assignment shall not be hired for the assignment in question.
- (c) Relationship with the Contracting Authority's staff: economic operators (including their personnel and sub-contractors) having business or family relationship with a member of the Contracting Authority's staff directly or indirectly involved in any part of: (i) the preparation of the terms of references or technical specification of a contract, (ii) the selection process for such contract, or (iii) the supervision of the contract, may not be awarded the contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Contracting Authority throughout the selection process and the execution of the contract.

2.2.3. Actions taken on fraud, corruption and conflict of interest

1. When the economic operator or applicant is found involved in one of the situations described in para 2.2.1 and 2.2.2. above, the SADC Secretariat and/or the Procuring Entity/Contracting Authority shall take one or more of the following measures, as deemed appropriate against the economic operator:
 - (a) reject its bid/application;
 - (b) declare the bidder/the applicant/the contractor, including its affiliates, ineligible for the award of a SADC Secretariat contract, either indefinitely or for a stated period of time of minimum two (2) years or any other period the Tender Committee might advise based on the nature of the offense committed;
 - (c) cancel or terminate any on-going contract with the bidder/the applicant/the contractor;
 - (d) request the relevant national authorities to conduct a joint investigation with the SADC Secretariat to inspect or carry out audits of the bidder/the contractor' accounting records and financial statements in connection with the contract in question for which it was found guilty of engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices;
 - (e) forfeit the bid or performance securities of the bidder/the contractor;



- (f) suspend any payments due to the bidder/the applicant/the contractor, under the contract in question or any other contract the bidder/the applicant/the contractor might have with the Institution, until the extent of damage caused by its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the SADC Secretariat's contract are determined and recovered;
 - (g) sue the bidder/the applicant/the contractor to recover the damages caused by its engagement in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question, if they are not fully recovered by the securities and the payments otherwise due to the bidder/the contractor.
2. The SADC Secretariat shall prepare and maintain a database containing third parties who are banned from participating in bids and calls for proposals.

2.2.4. Ethics and Professional Responsibility

2.2.4.1. Officials' Ethics and Professional Responsibility

1. The Contracting Authority/Contracting Authority and/or the SADC Secretariat staff engaged in the procurement and grant awarding activities, such as but not limited to: requisitioning, planning, preparing, and conducting procurement proceedings or call for proposals, and administering the implementation of contracts, or authorizing or effecting payments under the contracts shall:
- (a) discharge their duties impartially so as to assure fair competitive access to by bidders/applicants;
 - (b) always act in the SADC Secretariat's and or the Contracting Authority's interest, and in accordance with the objectives and procedures set forth in the SADC Secretariat's Procurement and Grants Policy and these Guidelines;
 - (c) at all times avoid conflicts of interest, and the appearance of impropriety, in carrying out their duties and conducting themselves, and shall not interfere in the work of internal oversight bodies; and
 - (d) not commit or abet corrupt, obstructive or fraudulent practices, including the solicitation or acceptance of improper inducements.
2. If a Contracting Authority and/or the SADC Secretariat staff engaged in the procurement activities benefits any pecuniary interest, direct or indirect, in any matter to be determined by him or any committee to which he is a member, he is required to declare the interest in accordance with the procedures set forth in the Guidelines, and is required to recuse himself from acting in any way in that matter and is required not take part in the consideration or discussion of, or vote on any question with respect to the matter.

2.2.4.2. Declarations

1. Any person, whether SADC Employee, Contractor, Observer, or any other party that is being present during the assessments, openings, evaluations or negotiations, adjudication and approval, will confirm their impartiality in the proceedings and also make sure all information disclosed to them will remain confidential. All such persons will be obliged to sign a statement of Impartiality and Confidentiality as per the template in Annex 5 to these Guidelines.
2. Notwithstanding the statement under paragraph one above, any person involved in the preparation of a project, receiving information prior to the same becoming public, being involved in the



proceedings in one way or the other prior to them resulting in invitation to bid will sign the statement of Objectivity and Confidentiality as per the template in Annex 5 to these Guidelines.

3. All statements mentioned in this section will be tailored, coordinated, presented, gathered and kept safe by the Procurement Function together with the rest of the procurement documentation. Before contract is awarded all statements will be kept safe by the Procurement Officer in charge of respective procurement.

2.2.4.3. Applicants, Bidders and Contractors' Ethics

4. Economic operators and contractors shall act in a professional, objective and impartial manner in the mutual interest of the two parties and in line with the provisions of these Guidelines.
5. Any attempt by an economic operator to obtain confidential information, enter into unlawful agreements with competitors or try to influence the members of the Evaluation Committee or the Contracting Authority/Contracting Authority or the SADC Secretariat staff during the process of examining, clarifying, evaluating and comparing bids, applications or proposals shall lead to the rejection of its candidacy, proposal or bid.
6. A contractor and its staff or any other economic operator associated or linked with the contractor shall not, even on an ancillary or subcontracting basis, bid or be allowed to provide services, goods or works if this raises a conflict of interest as defined in the SADC Procurement and Grants Policy and these Guidelines.
7. When putting forward a bid or application the economic operator or individual shall declare that it is not affected by any potential conflict of interest, and that has no commercial relationship with other bidders, applicants, the Contracting Authority or the SADC Secretariat staff or contractors involved in the same process. Should such a situation arise during the performance of the contract, the contractor shall immediately inform the Contracting Authority/Contracting Authority.
8. The contractor shall at all times act impartially and as a faithful adviser in accordance with the code of conduct of its profession. It may not commit the Contracting Authority or the SADC Secretariat in any way without its prior written consent.
9. For the duration of the contract, the contractor and its staff shall respect human rights and undertake not to offend the political, cultural and religious morals of the beneficiary state. In particular and in accordance with the legal basic act concerned, the contractor shall respect core labour standards as defined in the relevant International Labour conventions.
10. The contractor may not accept any payment connected with the contract other than that provided for therein. The contractor and its staff shall not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority or the SADC Secretariat as laid down in their contract with the Institution.
11. The contractor and its staff are bound to maintain confidentiality for the entire duration of the contract and after its completion, as specified in the contract. All reports and documents drawn up or received by the contractor during the performance of the contract are confidential and remain property of the Contracting Authority.
12. The contractor shall refrain from any relationship likely to compromise its independence or of its staff. If the contractor ceases to be independent, the Contracting Authority or the SADC Secretariat may, regardless of any damage complaints, terminate the contract without further notice and without the contractor having any right to complaint for compensation.



13. All bidding documents/regulations for grant agreements or contracts for works, goods and services shall include a clause stipulating that bidders/applicants shall be rejected or contracts/agreements terminated if it emerges that the award or execution of a contract/agreement has given rise to unusual commercial expenses. Such unusual commercial expenses are: (i) commissions not stated in the main contract or in the subcontracts stemming from the main contract, (ii) commissions not paid in return for any actual and legitimate service, (iii) commissions remitted to a tax haven; (iv) commissions paid to a recipient who is not clearly identified; (v) commissions paid to a company having every appearance of being a “shell company”, or (vi) commissions paid for lobbyist services.
14. The contractor shall make an undertaking to supply on request to the Contracting Authority or the SADC Secretariat and any relevant national authority or investigator representing the Contracting Authority or the SADC Secretariat with all the supporting documents relating to the conditions of the contract's execution. The Contracting Authority or the SADC Secretariat may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected or unusual commercial expenses.
15. Contractors found to have paid unusual commercial expenses on contracts funded by the Contracting Authority or the SADC Secretariat are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving Contracting Authority/Contracting Authority/third party funds.

2.2.4.4. Debarment of economic operators/applicants

1. Contracting Authority shall have the right to debar economic operators/applicants, which are found guilty of Fraudulent, Corrupt, Obstructive or Collusive practice or Conflict of Interest or are not upholding their ethical and professional responsibilities as defined in Clause 2.2.4.2 of these Guidelines.
2. The debarment shall be for minimum two (2) years or for a maximum of ten (10) years depending of the gravity of the offense committed and according to Article 9 of the SADC Secretariat Procurement and Grants Policy and Clause 2.2 of these Guidelines. Presenting false or forged documents in a tender/call for proposals related to previous experience and eligibility or exclusion criteria shall lead to a debarment of at least five (5) years and the exclusion from the process. The Contracting Authority may also proceed to cancel all contractual relations existing between the Contracting Authority and the economic operator/applicant and its branches and/or subsidiaries.
3. The relevant Tender Committee shall review the recommendation made, either through request of the Evaluation Committee, the Procurement Function or the Requisitioning Function. After deliberation, the Committee will submit their own recommendation for approval to the Accounting Officer.
4. The decision of debarment shall be communicated by the Contracting Authority to the debarred economic operator in writing and shall give specific details on the reasons leading to debarment.
5. The economic operator/applicant shall have the right to appeal the Contracting Authority's decision in accordance with section seven of these Guidelines.
6. The SADC Secretariat shall maintain on its procurement website a record of all debarred economic operators/applicants indicating the name, the place of registration, nationality, owner(s) of business (if applicable), the date when the decision for debarment was taken, the duration of the debarment and brief description of offense committed.



2.3. Categories of procurement

1. The procurement process selected shall depend on the what is being procured, i.e. the output/purpose.
2. There are three basic categories of procurement, as follows:
 - (a) **Procurement of Services:** whereby a contractor will be selected to provide time, effort and/or expertise in exchange for remuneration; i.e. contracts for technical assistance, legal services, supervision of works, studies of all types (feasibility, social, environmental), audit, design and architectural services, training, event organising, cleaning, security services, interpretation, insurance, medical, communication, operation and maintenance, surveys, or any other type of consultancy service.
 - (b) **Procurement of Goods:** whereby a contractor will be selected to deliver/provide supplies in exchange for remuneration; i.e. contracts for purchasing, renting or leasing of property, commodities, supply of equipment and related installation and commissioning, including ancillary services, raw material, machinery, transport, accommodation, conference facilities, printing, editing, translation, broadcasting.
 - (c) **Procurement of Works:** whereby a contractor will be selected for executing works such as constructions, refurbishment or maintenance of buildings or civil infrastructure (roads, bridges, ports, channels, dams, sewage systems etc), land reclamation (such as earthworks, drainage, flooding etc) and civil installations (waste treatment plants, irrigation systems, electricity lines etc).
3. In some cases contracts may have outputs related to more than one category, i.e. ancillary services in some goods contracts or design services in some works contracts. In such cases the nature of the output and its proportion within the contract shall be determined by the largest component with the contract.

2.4. Procurement methods

1. Competitive tendering is the basic way of awarding contracts. The purpose of competitive tendering is to ensure that bids comply with the awarding principles and to obtain the quality of works, goods and services needed at the best possible price.
2. There are several types of procurement method, each granting a different degree of competition. There are six procurement methods allowed under these Guidelines, each granting a different degree of competition, namely Open Bidding, Restricted Bidding, Limited Bidding, Negotiated Procedure, Single Source, Framework Contracts and Selection of Individual Consultants.
3. Whatever the procedure used, the Contracting Authority must ensure that the conditions allow fair competition and respect the procurement principles established both in the SADC Secretariat Procurement and Grants Policy and these Guidelines. Conditions justifying application of each method are provided in these Guidelines. The detailed steps on the procurement of services, goods and works are presented in Chapters 3, 4 and 5 of these Guidelines, respectively.
4. The thresholds included in the Schedule 3 are based on the maximum budget available for the contract. Where contracts are divided in lots, the value of each lot is added up for calculating the overall threshold. The contracts shall not be split artificially to circumvent the procurement thresholds. Once there is a financial allocation approved, the Contracting Authority shall decide which is the most adequate procurement procedure.
5. The Competent Authority may, through derogation and respecting the specific legal frame authorising the expenditure (Convention, Contribution Agreement, Programme, Financing Agreement or other legal frame) decide to follow a different procedure.



2.4.1. Open Bidding

1. This shall be the preferred method to be used for procurement of goods and works.
2. The Open Bidding involves an open invitation to submit a technical and financial proposal in a competitive bidding process to all interested economic operators. Under the Open Bidding, any economic operator wishing to bid for the advertised contract downloads the Bidding Documents from SADC and other respective websites, or receives upon request, the Bidding Documents (which may have to be paid for), in accordance with the procedures laid down in the procurement notice. No shortlisting or other form of pre-selection shall be conducted in the application of this method.
3. To avoid distortion of competition and eliminate possible corrupt practices, an economic operator and its affiliates, shall submit only one bid for the same contract on its own or as member of a joint venture/consortium, unless bidding documents allow for variant solutions/alternative offers. For this purpose affiliates are defined as: any legal entity (i.e.: the group of companies, firms, associations, etc) where the economic operator or any of the major shareholders in the economic operator owns at least twenty per cent (20%) of the shares or the share capital. For the same purpose, major shareholder shall be defined as: any legal or natural person, which owns no less than twenty per cent (20%) of the shares or the share capital of the economic operator. If an economic operator deliberately or inadvertently submits more than one application per contract, unless allowed for in the bidding documents, it shall be automatically disqualified from any procurement processes undertaken by the Procurement Entity for a period of two (2) years.
4. There are three types of Open Biddings, as follows:
 - (a) International Open Bidding, whereby the process is published internationally;
 - (b) Regional Open Bidding, whereby the process is published at minimum regionally; and
 - (c) Local Open Bidding, whereby the process is published at minimum locally.
5. The detailed steps on how this procurement procedure shall apply for procurement of services, goods and works are presented further in chapters 3, 4 and 5 of these Guidelines.

2.4.2. Restricted Bidding

1. The method shall be applied to procurement for services according to the thresholds established in Schedule 3. This method is divided into two stages:
 - (a) Prequalification of bidders**
 - i. Under the Restricted Bidding, the first stage of the process is the pre-qualification. During the pre-qualification, the Contracting Authority issues an Invitation for Pre-qualification open to all the interested economic operators.
 - ii. The Invitation for Pre-qualification shall indicate the selection criteria to be mandatorily fulfilled by an economic operator to be shortlisted for participating in the bidding procedure. The purpose of the pre-qualification is to draw up a shortlist of applicants based on their qualifications before inviting them to the bidding procedure.
 - iii. The selection procedure, where the longlist (all applicants responding to the published notice) is reduced to a shortlist, consists in examining the responses to the requirements established in the procurement notice. The shortlist must have a minimum three and a maximum of six operators.



- iv. In case the minimum of three is not achieved the procedure shall be cancelled and the Contracting Authority may relaunch the prequalification process after the conditions leading to the failure of the previous prequalification have been identified and corrected. In case the prequalification process fails twice the Contracting Authority may decide to follow Negotiated Procedure with the company/ies that met the prequalification requirements.
- v. The contract shall be given the maximum publicity according to publicity guidelines. The selection criteria and the tasks to be undertaken shall be described in the specific contract notice.

(b) Invitation to bid to pre-qualified bidders

- i. In the second stage of the Restricted Bidding, the Contracting Authority invites and sends to shortlisted applicants the Invitation to Bid and the Bidding Documents free of charge.
 - ii. In order to ensure fair competition, the same economic operator or consortium shortlisted that has submitted the application form shall submit bids. No change whatsoever in the identity or composition of the bidder is permitted unless the Contracting Authority has given its prior approval in writing. A situation where such approval could be given is i.e. where a merger has taken place between a shortlisted applicant/member of a consortium with another company and where the new company is found to meet the eligibility and qualification criteria and does not raise any conflict of interest or unfair competition.
2. There are three types of Restricted Biddings, as follows:
 - (a) International Restricted Bidding, whereby the pre-qualification process is published internationally;
 - (b) Regional Restricted Bidding, whereby the pre-qualification process is published at minimum regionally; and
 - (c) Local Restricted Bidding, whereby the pre-qualification process is published at minimum locally.
 3. The detailed steps on how the three types of above procurement procedures shall apply for procurement of services are presented further in chapter 3 of these Guidelines.

2.4.3. Limited Bidding

1. The Limited Bidding method is essentially the Restricted Bidding method with the exception that in Limited Bidding the Contracting Authority shall establish the shortlist without advertised invitation to pre-qualification.
2. Under this method, the Contracting Authority restricts the issue of bidding documents to a limited number of economic operators when:
 - (a) the goods, works, or services required are of a specialized nature or can be obtained from a limited number of specialized contractors, service providers or reputable sources, all of whom are known to the Contracting Authority; or
 - (b) the time and cost of considering a large number of tenders is disproportionate to the value of the procurement; or
 - (c) there is an urgent need for the goods, works or services such that there would be insufficient time for the Contracting Authority to engage in open tendering, provided that the circumstances giving rise to the urgency could not have been foreseen by the Contracting Authority and have not been caused by dilatory conduct on its part.

- (d) It falls within the thresholds established for it in the SADC Procurement and Grants Guidelines.
3. This method shall only be deployed with the prior approval of the Executive Secretary or a delegated authority if the attribution has been delegated by the Executive Secretary and it has been fully demonstrated that any of the conditions laid out in the previous paragraph have been met.
 4. Under this method, for the procurement process to be considered successful, the shortlist shall consist of a minimum three (3) economic operators and the Contracting Authority shall receive at least two (2) responsive bids/quotations/proposals.
 - 5.
 6. Process for prequalifying bidders without advertisement shall be as follows:
 7.
 - i) Requisitioning Function shall establish the requirements for eligibility and qualification criteria of Economic Operators with guidance provided by the Procurement Function;
 - ii) Requisitioning Function shall undertake market research and identify Economic Operators that are eligible, qualify and are most suitable for contracting;
 - iii) Requisitioning Function will record the selection in a form of Prequalification Report for Limited Bidding (see template in Annex 5 to these Guidelines) both steps (i) and (ii) above;
 - iv) Director/Head of Unit will confirm in writing that Eligibility and Qualification criteria have been adequately applied;
 - v) Requisitioning Function will submit approved memo and report to the Procurement Function for review and processing; and
 - vi) Subject to Procurement Function having no objection to market research and the content of report, submit to Ex-Ante for verification. Bidding process shall not proceed unless the verification by Ex-Ante is done.

2.4.4. Negotiated Procedure

1. In the case of particularly complex contracts, where the Contracting Authority considers that neither direct use of the Open Bidding nor the arrangements governing the Restricted Bidding will result in the best value for money, it may use the Negotiated Procedure.
2. A contract is considered to be 'particularly complex' if the Contracting Authority is objectively unable either to specify the technical means of satisfying its needs or objectives or to specify the legal or financial makeup of the project.
3. This method shall only be deployed with prior approval of the Accounting Officer.
4. The Negotiated Procedure is a procurement method that allows the Contracting Authority to negotiate with a minimum of one bidder for negotiated procedure without publication or minimum of two bidders for negotiated procedure with publication, the technical, financial and commercial conditions of a contract.
5. Negotiated Procedure is limited by thresholds in terms of the minimum or maximum value of the contract, as per Schedule 3 of these Guidelines.
6. There are two types of Negotiated Procedure:



(a) Negotiated Procedure with publication

- (1) This method entails that the Contracting Authority launches an open invitation to all interested economic operators to participate in a two-stage bidding process.
- (2) During the first stage, the interested economic operators are invited to submit un-priced technical proposals on the basis of a conceptual/preliminary design or performance specifications.
- (3) Upon review of the first stage proposals, the Contracting Authority shall invite bidders to negotiate improved technical proposal, discuss commercial conditions of contract and provide any other clarification as necessary.
- (4) Subject to specific request for improvement of their proposals as well as general amendments of the bidding documents, the bidders shall be further invited to submit final technical and financial proposals at the second stage.
- (5) Following the second stage evaluation, the Procurement Entity shall invite the successful bidder to negotiate the contract.
- (6) The Negotiated Procedure with Publication shall be used only in the case of contracts for: (a) large complex facilities awarded as single responsibility (including as turnkey) contracts for the design, supply and installation, or single responsibility contracts for the supply and installation of a facility or plant; (b) works of a complex and special nature; (c) complex design and build contracts or (d) complex equipment and information and technologies that are subject to rapid technology advances where it may be undesirable or impractical to prepare complete technical specifications in advance.

(b) Negotiated Procedure without publication

- (1) Negotiated Procedure without publication can be used in the following circumstances:
 - i) Following an unsuccessful bidding under open, restricted or limited bidding process, if the Contracting Authority cannot launch a new procurement process due to emergency reasons or adverse market conditions which prevent open competition.
 - ii) If the Contracting Authority cannot launch a new prequalification process due to emergency or other reasons following an unsuccessful attempt, where less than three companies qualified, the Contracting Authority may launch a Negotiated Procedure with the entities that did (or did sufficiently) comply with the prequalification.
 - iii) Where the goods involved are manufactured purely for the purpose of research, experimentation, study or development; however, contracts awarded pursuant to this point shall not include quantity production to establish commercial viability or to recover research and development costs.
 - iv) For the purchase of goods or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors or a similar procedure under national laws or regulations.
 - v) For goods and services which due to safety and security reasons can only be procured from a limited reputable source (i.e. drugs and medicines, financial services, legal services, medical services or where, for technical reasons or reasons involving the protection of exclusive rights, proprietary goods, works or services, the contract can only be awarded to a limited number or a single economic operator.

- vi) the time and cost of considering a large number of tenders is disproportionate to the value of the procurement; or
 - vii) there is an urgent need for the goods, works or services such that there would be insufficient time for the Contracting Authority to engage in open, restricted or limited bidding, provided that the circumstances giving rise to the urgency could not have been foreseen by the Contracting Authority and have not been caused by dilatory conduct on its part.
- (2) Under Negotiated Procedure without publication, the Procurement Entity invites a minimum of one potential economic operator to submit and negotiate technical and financial proposals.
 - (3) The application of this method may take place in successive stages of negotiation until the Contracting Authority is satisfied with the technical and commercial offer of the invited economic operators.
 - (4) The contract can only be awarded to the bidder that has submitted a technical compliant offer at the lowest negotiated price, or as per award criteria for service contracts as per the provisions of the Bidding Documents.
7. The Negotiated procedure entails the following:
- a) ***Request for Negotiated procedure:***
 - (1) Procurement Function, on the basis of the submission from the Requisition Function, prepares the request for the negotiated procedure, and sends it to the Accounting Officer for approval.
 - (2) The Request for Negotiated Procedure shall contain at least the following information: i) an explanatory note justifying why the negotiation procedure is required; ii) the Terms of Reference/Technical Specifications to describe the needs of the Institution, and an estimated value of the contract, iii) the eligibility criteria to be fulfilled by the economic operators invited to submit a proposal; and iv) the name(s) of the economic operator (s) invited to submit a proposal.
 - (3) In case of negotiations for amendment of existing contracts or resulting from failures in two successive bidding procedures, the eligibility criteria shall be the same as the one used for the initial procurement process.
 - b) ***Preparation of the Request for Offer:***
 - (1) Upon the approval of the Request for Negotiation Procedure by the Accounting Officer, the Procurement Function will prepare, using the approved standard templates of the Request for Offer.
 - (2) Depending of the complexity of the requirements, the economic operators shall be given a minimum of fifteen (15) and a maximum of sixty (60) days to submit a proposal in response to the invitation.
 - c) ***Communication with the invited economic operator(s):***
 - (1) The economic operator(s) invited to submit a proposal is/are allowed to request clarifications prior to submitting the proposal. However, all communications between economic operator(s) and Contracting Authority shall be in writing.

- (2) To ensure fairness in the negotiation procedure, when more than one economic operator is invited to submit a proposal for the same contract, the request for clarification and the answers given by Contracting Authority shall be circulated among all the economic operators requested to submit a proposal, or shall be published in case of Negotiated Procedure with publication.
- d) ***Submission of proposal:***
- (1) The invited economic operator(s) shall send the proposal in the format and by the deadline as set in the Request for Proposal.
 - (2) If the invited economic operator needs more time to prepare the proposal, it shall request the Contracting Authority to extend the deadline. The request shall be send at least 14 days prior to the expiration of the deadline for submission of proposals. Contracting Authority has the right to grant or reject the request for extension. Contracting Authority shall inform simultaneously in writing all invited economic operators about its decision regarding the request for extension.
- e) ***Negotiation Committee:***
- (1) The Negotiation Committee shall have the same composition, functions and origin as the Evaluation Committee regulated in para 2.11 of these Guidelines.
 - (2) If it is practicable, the person(s) who developed the Technical Specifications/Terms of References shall be included in the Negotiation Committee in order to provide the technical input.
 - (3) Members of the Appeals Review Committee, the Internal Audit Function, the Accounting Officer or the Complaints Officers shall not be appointed as members of the Negotiation Committee.
- f) ***Assessment and Negotiation of Proposal:***
- (1) The purpose of the negotiation is to secure a contract for services, goods and/or works needed by Contracting Authority, under the most advantageous conditions for the Contracting Authority and in accordance with the principles governing the SADC Secretariat procurement processes.
 - (2) The negotiation may include all aspects of the proposal: technical (including quantity and quality of deliverables), financial (including the unit prices or the global price) or legal aspects (including the contractual conditions and qualification criteria).
 - (3) The negotiation between the Negotiation Committee and the invited economic operator(s) shall be conducted in writing to a feasible extent. Should the negotiations require a direct contact between the Negotiation Committee and the invited economic operator, a direct meeting can be organized.
 - (4) The place of negotiation shall always be the Contracting Authority Head Quarters and the invited economic operator shall bear all the costs associated to its participation in such meeting(s).
 - (5) The discussion and the conclusions of the meeting shall be recorded by the Secretary of the Committee and signed by all the participants in the meeting. The recorded minutes shall state that the agreements reached during the meeting(s) are not binding either party, until a procurement contract is signed between the economic operator and the Contracting Authority.



- (6) When the negotiation is conducted with more than one economic operator, the Negotiation Committee shall observe transparency and fairness at all times during the negotiation. During the negotiation, each economic operator shall be given the same chances to improve their proposal.
 - (7) The assessment and the negotiation procedures shall observe limitations of the bid validity period.
- g) **Award of the contract:**
- (1) The negotiation procedure is a bidding procedure and the bids shall be evaluated against the qualification and award criteria contained in the bidding documents. The Negotiation Committee shall apply the award criteria and shall make a recommendation for award.
 - (2) The entire negotiation process and the justification of the recommendation for award shall be documented in the Negotiation Report. It shall be prepared by the Secretary of the Negotiation Committee and shall be signed by all members of the Negotiation Committee. The standard template shall be used for drafting the Negotiation Report.
 - (3) The Negotiation Report is subject to the approval by the Accounting Officer.
 - (4) After the approval of the Negotiation Report, the Procurement Function shall inform the economic operator(s) on the outcome of its deliberation.
 - (5) When informing those not recommended for the award, the notification shall include detailed reasons for the not being recommended for the award, including comparison of scores with the winning bid, it will also indicate the name of economic operator recommended for the award and the value of the contract for the services, goods or works.
 - (6) Unsuccessful economic operator(s) can appeal the decision of the Negotiation Committee in accordance with the procedures described in Chapter 7 of these Guidelines.
 - (7) For each recommended award the Contracting Authority will carefully observe the cool-off period.
- h) **Preparation of the contract:**
- (1) The Procurement Function shall be responsible for the preparation of the contract, based on the standard templates and the agreements reached in the Negotiation Report.
 - (2) The contract shall be drawn up by the Procurement Function and is subject to financial and legal regulatory clearances prior to its signature by the Accounting Officer or his/her delegatee.
 - (3) The contract shall be issued in two (2) originals and be initialled on each page.
 - (4) Since the economic conditions offered by the economic operator might change rapidly and invalidate the agreements reached during the negotiation procedures, the contract shall be sent to the economic operator for its signature up to thirty (30) days from that date of notification of the recommendation of the Negotiation Committee for the award of the contract.
 - (5) The economic operator shall be given fifteen (15) days to sign the contract and return one (1) original to the Contracting Authority. If it fails to do so, the Contracting Authority may consider cancelling the award of the contract. In such case, the negotiation procedures done shall be cancelled or, if the negotiation was conducted with more than



one economic operator, shall be reactivated with the one that submitted the next responsive proposal, as the Contracting Authority considers appropriate.

(6) The Procurement Function shall verify the power of representation of the natural person who signs the contract on behalf of the awarded bidder.

i) ***Publication of the award of contract:***

After the signature of the contract by both parties, the Procurement Function shall publish the notification of award of the contract valued at US\$ 50,000 or more using the standard template on the SADC Secretariat website, within fifteen (15) days from the date of signature of the contract.

j) ***Cancellation of the negotiation procedure:***

(1) The Contracting Authority shall not be bound to accept any proposal submitted by, or commence any negotiation with, the invited economic operator(s).

(2) At any time and without being liable for any compensation to the invited economic operator(s), the Contracting Authority may cancel the negotiation procedures if:

- i. no proposal has been received within the deadline set in the Request for Proposal;
- ii. after evaluating the proposal(s) submitted by the economic operator(s), the Negotiation Committee is of the view that the quality of the proposals makes a mutual acceptable agreement improbable or very difficult;
- iii. if the negotiations with the economic operator(s) fail;
- iv. if the recommended economic operator fails to sign the contract which was subject to negotiations with a single Economic Operator; or
- v. if the technical and/or economic conditions or the needs of the Contracting Authority have changed from the moment of launching the procurement processes and the services, goods and works subject to procurement under the negotiation procedures are no longer justified.

(3) The decision to cancel the negotiation procedure shall be taken by the Accounting Officer and shall be communicated to the invited economic operators by the Procurement Function.

2.4.5. Single Source

1. This is an exceptional non-competitive procurement method that can only be used under the following conditions, irrespective of the estimated value of the contract:

(a) where, for reasons of exceptional circumstances that the Contracting Authority could not have foreseen and that can in no way be attributed to them, the time limits for the competitive procedures cannot be met. The circumstances invoked to justify extreme urgency shall in no way be attributable to any department or staff of The Contracting Authority. For purposes of this clause, exceptional circumstances situations shall be one of the following situations:

- i) Where there is likely to be injury or loss of life;
- ii) Where there is likely to be damage to property; or
- iii) Where there is a situation arising from “Force Majeure”.

(b) where, for technical reasons, or reasons involving the protection of exclusive rights/proprietary goods, services, the contract can be awarded only to a particular economic operator;

(c) where existing contracts are amended for:



- (i) complementary services not included in the main contract but which, due to unforeseen circumstances, have become necessary to perform the contract, provided that the complementary services are technically and economically inseparable from the main contract, without bringing serious inconveniences for the Contracting Authority. Additional services consisting of the repetition of similar services entrusted to the contractor furnishing the services under the initial contract, provided that a procurement notice has been published for the initial contract and that the possibility of using the Negotiated Procedure for further services for the project as well as the estimated cost, were clearly indicated in the Bidding Documents or the Terms of Reference for the initial contract.
 - (ii) additional deliveries by the original contractor intended either as a partial replacement of normal goods or installations or as the extension of existing contracts for goods or works, where a change of contractor would oblige the Contracting Authority to acquire equipment having different technical characteristics which would result in either incompatibility or disproportionate technical difficulties in operation and maintenance.
 - (iii) additional works not included in the initial contract which due to unforeseen circumstances, became necessary for carrying out the works described therein and have been awarded to the contractor already carrying out the work: a) where such works cannot be technically or economically separated from the main contract without serious inconvenience to the beneficiary; and b) where such works, although separable from the performance of the original contract, are strictly necessary to its completion.
2. The method shall only be deployed with prior approval of the Executive Secretary or a delegated authority and if it has been fully demonstrated that the conditions for application of these methods have been met.
 3. Single source process shall be as follows:
 - i) Requisitioning Function shall submit an approved Memo from the Director/Head of Unit requesting the Procurement Function for the use of Single Source procedure;
 - ii) Quotation will be obtained by the Procurement Function in close consultation with the Requisitioning Function;
 - iii) Requisitioning Function shall submit the request to Procurement Function, containing the following at minimum; approved Memo, Terms of Reference/Technical Specification, quotation and Single Source Form;
 - iv) Head of Procurement Function shall review the submission, draft and sign a Memo for the attention of Executive Secretary and submits to Ex-Ante for verification together with forms from ii) above;
 - v) Ex-Ante Function shall verify the submission and submit to the Executive Secretary for approval; and
 - vi) If approved, Procurement Function shall facilitate contracting.

2.4.6. Framework contracts

1. Framework contracts are agreements between a Contracting Authority and one (single) or more (multiple) economic operators, the purpose of which is to establish the terms governing specific contracts which may be awarded during a given period, particularly as regards the duration, subject, price, maximum value, implementation rules and quantities envisaged.
2. Procurement under framework contracts is a simplified competitive procurement procedure to be used for acquisition of any type of services, standardized or “off the shelf” goods and simple or low value works contracts of repetitive nature, required by the Contracting Authority on a



recurrent basis, and when it is difficult/impossible to foresee the exact quantities and the time when they are needed.

3. Framework contracts with several economic operators are called “multiple” framework contracts; they take the form of separate contracts but they are all concluded on identical terms. The specifications must state both the minimum and the maximum number of operators with which the Contracting Authority intends to conclude contracts.
4. Framework contracts with a single economic operator are called “single” framework contracts.
5. The duration of both multiple and single framework contracts should not exceed two (2) calendar years, and may be extended up to four (4) calendar years, subject to well-documented assessment of performance of the contractors one year after the signature of the contracts.
6. The value of each Multiple Framework Contract shall be determined based on the estimated annual value of specific group of services, goods and works needed by the Institution as reflected in the specific annual budgetary allocation.
7. Contracting Authority shall not make undue use of framework contracts or use them in such a way that the purpose or effect is to prevent, restrict or distort competition.
8. The aggregated total sum of the awarded Specific Contracts under their Framework Contract(s) shall not exceed the initially foreseen total budget under the Multiple Framework Contract.
9. In case of extension of the Multiple Framework Agreement, the aggregated total sum of the awarded Specific Contracts under their Multiple Framework Contract(s) shall not exceed double the original ceiling amount of the agreement.

2.4.7. Procurement thresholds and packaging of procurement contracts

1. The procurement thresholds under which various procurement methods shall apply are specified in Schedule 3 to these Guidelines.
2. Non-recurrent procurement of services, goods and works with a value under US\$ 2,000 shall be considered as petty cash transactions and are not in the scope of these Guidelines.
3. The thresholds given in Schedule 3 are based on the maximum estimated value of the contract in question. Where contracts are subdivided in lots, the value of each lot shall be added up when calculating the overall threshold as per Schedule 3.
4. If appropriate, in order to achieve economies of scale, to ensure maximum coordination between related activities and to keep contract implementation as simple as possible, care shall be taken to design projects allowing for maximum contract size and avoiding the unnecessary fragmentation of budget resources into a series of small contracts. This purpose can be achieved in two ways:
 - a) Through multiple framework contracts for the recurring needs of the same item when the specific quantity and time of the needs is difficult to assess when maintaining stocks will be not economically advantageous for the institution; and
 - b) Grouping the required items in lots in such a way to ensure transparency, economy and efficiency in the procurement processes and delivery of the right services, works and goods at the right time for the Institution. The grouping shall be made by categories: services, goods and works. Within each category, needs shall be examined to see whether it is possible, sensible and commercially accepted to combine similar or related items in a single lot.



5. Under no circumstances grouping contracts into lots shall lead to situations when the achievement of a contractual obligation under one lot shall depend on the fulfilling of the contractual obligation under another lot.
6. The contracts shall not be split artificially to circumvent the procurement thresholds.
7. The Accounting Officer may grant derogations to methods/thresholds. These derogations will be justified and made on a case-by-case basis.

2.5. Participation in bids/calls for proposals: eligibility/exclusion criteria

In order to be eligible to participate in award procedures (whether procurement of goods, services and works or calls for proposals for grants) the potential contractors must meet the nationality, origin and non-exclusion criteria.

2.5.1. The rules of nationality, origin and regional preference

1. The Contracting Authority must take into consideration and introduce in the bidding documents, if applicable, the rules of nationality, origin and regional preference.
2. The rules of nationality, origin and regional preference shall be specific to the funding source and shall be regulated in the legal document authorising it (Convention, Agreement, Financing Agreement, Contract, Contribution Agreement or other similar legal instruments).
3. When contracts are funded by SADC Member States, the nationality of the economic operator and grant applicant and their employees and consultants shall not be a condition for determination of eligibility, but regional preference may be applied if not conflicting the 2.5.1.(2) above.

2.5.1.1. The rule of nationality

1. The nationality of the economic operator and grant applicant and their employees and consultants shall not be a condition for determination of eligibility.
2. For natural persons, the nationality must be declared in the bid and proved through providing copies of passport or national identification card. For legal persons, the bidding documents or guidelines for applicants shall require that the country in which they are established is stated and evidence provided by presenting the documents required under that country's law.
3. In order to demonstrate compliance with the regional preference rule (if applicable, legal persons have to prove that their legal personality is formed under the respective country and that their actual domicile is in that country.

2.5.1.2. The rule of origin

1. The rule of origin refers to the origin of goods. All goods purchased under a contract shall originate from a country eligible as per the corresponding financing instrument. By default, origin of goods when financed by SADC are not limited to any country.
2. The country of origin is not necessarily the country from which the goods were shipped and supplied. Two basic concepts are used to determine the origin of goods, namely the concept of 'wholly obtained' products and the concept of products having undergone a 'last substantial transformation':
3. If only one country is involved in the production, the 'wholly obtained' concept will be applied. In practice, these goods wholly obtained in a single country must be regarded as having their origin in that country. This will be restricted to mostly products obtained in their natural state and products derived from wholly obtained products.

4. If two or more countries are involved in the production of goods , it is necessary to determine which of those countries confers origin on the finished goods. For this purpose the concept of 'last substantial transformation' is applied. In general the criterion of last substantial transformation is expressed in three ways:
5. by a rule requiring a change of tariff (sub)heading in the HS nomenclature (i.e. the Nomenclature governed by the Convention on the Harmonized Commodity Description and Coding System);
6. by a list of manufacturing or processing operations that do or do not confer on the goods the origin of the country in which these operations were carried out;
7. by a value added rule, where the increase of value due to assembly operations and incorporation of originating materials represents a specified level of the ex-works price of the product.
8. When submitting the bid/application, if the rules of origin apply, the bidder must state expressly that all the goods meet the requirements concerning origin and must state the country/ies of origin. When the contract involves the supply of more than one item, the origin of each item must be specified.
9. The bidder is bound by the declaration of origin she/he submits. The bidder is obliged to verify that the provided information is correct. Otherwise, the bidder risks to be excluded because of negligently misrepresenting information.
10. The provider of the goods may be requested to provide documents supporting the origin e.g. certificates of origin and/or additional information. In this case, the bidder must provide additional information considering that the issuing authority may refuse to issue a certificate of origin at tendering stage without presentation of commercial invoices.
11. The declaration or certificate of origin must be submitted at the latest during implementation of the contract when the certificate of provisional acceptance is requested. Failing this, the contracting authority will not make any further payment to the contractor. Exceptionally, other substantiating documents can be accepted by the contracting authority instead of the aforementioned declarations if the contractor justifies that it is impossible to provide declarations or certificates of origin.
12. The Contracting Authority may on its own initiative make enquiries regarding the rule of origin and the certificates and/or documents provided.
13. The declarations or certificates of origin must be issued by the competent authorities of the goods' or the providers' country of origin (for example the chamber of commerce) and comply with the international agreements to which that country is a signatory. However, declarations or certificates of origin are not exhaustive proof of origin, and should not be regarded as a legal proof, but as useful element for determination of the origin, which may, in case of doubts, facilitate further checks.
14. It is up to the contracting authority to verify compliance with the rules of origin. Where there are serious doubts about the authenticity of a declaration of origin or the information it contains (e.g. because of discrepancies in the document, spelling errors, etc.), the contracting authority should contact the issuing authority to have the authenticity of the documents submitted and/or the information it contains confirmed.



15. Declarations issued by an authority, other than the one located at the place of declared origin, should be investigated carefully.
16. The contracting authority may also carry out on-the-spot checks of compliance with the origin rules, preferably before the issuance of the provisional acceptance certificate.

2.5.1.3. Regional Preference

1. Regional preference means an evaluation method through which the Procurement Entity grants bidders that are offering services, goods and works originating from the SADC Countries an advantage over the bidders offering similar services, goods and works originating from outside the SADC Countries.
2. Bidding documents (procurement) or guidelines for applicants (grants) must clearly state the rules of regional preference applicable to the procedure and must clearly indicate the preference to be granted to domestic manufactured services, goods and works and the information required to establish the eligibility of a bid for such preference.
3. For Goods and to qualify for the regional preference, the bids shall offer Goods and Related Services of at least fifty percent (50%) in contract value of SADC origin. These bids will be discounted, for the purpose of financial evaluation only, with fifteen percent (15%).
4. For Services to qualify for the regional preference, a bid offering fifty percent (50)% or more expertise (experts) from the SADC Region will be discounted, for the purpose of financial evaluation only, with fifteen percent (15%).
5. For Works to qualify for the regional preference, the bids shall offer Works (labor and material) of at least fifty percent (50%) in contract value of SADC origin. These bids will be discounted, for the purpose of financial evaluation only, with fifteen percent (15%).
6. This preference may not apply to procurement funded by a cooperating partner for which the details can be found under Article 19. Regional Preference of SADC Procurement and Grants Policy.

2.5.2. The Exclusion criteria

1. The economic operators/applicants shall not be eligible for award of contracts where:
 - a. they are bankrupt;
 - b. payments to them have been suspended in accordance with the judgment of a court of law other than a judgment declaring bankruptcy and resulting, in accordance with their national laws in the total or partial loss of the right to administer and dispose of their property;
 - c. legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property;
 - d. they have been convicted, by a final judgment, of any crime or offence concerning their professional conduct;
 - e. they are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender; or
 - f. they have been sanctioned by SADC Secretariat pursuant to the provisions of the SADC Procurement and Grants Policy.
2. The Contracting Authority shall accept, as satisfactory evidence, that the applicant or the bidder is not in one of the above situations described in (a), (b) or (e), on submission of a recent extract



from the judicial record, or failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin showing that those requirements have been met.

3. The Contracting authority shall accept, as satisfactory evidence, that the bidder/applicant is not in the situation described in (d), on submission of a recent certificate issued by the competent authority of the country concerned. Where no such documents or certificates are issued in the concerned country, and for other cases of exclusion listed above, they may be replaced by a sworn / solemn statement (affidavit) made by the interested party in front of a judicial or administrative authority, a notary, or a qualified professional body in its country of origin or provenance.
4. The Contracting Authority takes into account that - as a rule - the exclusion criteria are related to the legal or natural person acting as a bidder/applicant and not to the representatives (natural persons) in case of representing a legal person. However, depending on the legislation of the country where the bidder/applicant (legal person) is legally established and if the Contracting Authority considers necessary or has reasonable doubts concerning the personal situation of the representative, the above stated documents may also relate to natural persons, including company directors or any person with power of representation, decision-making or control in relation to the bidder.
5. Whenever a bidder/applicant, due to its nature (for instance, national public administrations and international institutions), cannot fall into one of the above categories and/or cannot provide the documents indicated above, a simple declaration explaining their situation shall suffice.
6. For procurement under Restricted Bidding/Restricted and call for proposals, the compliance with the eligibility criteria shall be assessed during the pre-qualification phase. Hence, the documentation proving that the applicant does not fall in any of the categories defined in the exclusion criteria, shall be submitted along with the application form for pre-qualification or once the short list is established.
Alternatively, subject to provisions within the prequalification/bidding documents, the compliance may be assessed based on the Sworn Statement during the pre-qualification phase, which for bidders that have been shortlisted will be supported by proofs during the bidding stage.
7. The date of the evidence or documents provided shall be up to one (1) year before the date of submission of the bid/application. Bidders/applicants shall, in addition, provide a statement confirming that their overall situation has not weakened in the period since the evidence was drawn up to the date they submitted the bid/application.
8. The above-required documents shall be submitted by the applicant/bidder, and in case of a joint venture, by all joint venture members. The documents may be originals or copies. If the documents are copies, a public notary or the commissioner of oath shall certify them. However, at the Contracting Authority's request, the bidder/applicant shall be able to provide any original document. If sub-contractors are employed by the bidder/applicant, the same rules apply.
9. If the supporting documents are not written in an official SADC Secretariat language, certified translation into an official SADC Secretariat language shall be attached.
10. Contracts shall not be awarded to applicants or bidders who, during the procurement process or call for proposals:
 - a) are subject to a conflict of interest;
 - b) are guilty of misrepresentation when submitting the information required by the Contracting Authority as a condition of participation in the contract procedure, or fail to submit the information required by the Contracting Authority as a condition of participation; or
 - c) find themselves in any situations of exclusion for the procurement procedure or call for proposal, after the bid or application was submitted.



11. Potential contractors for procurement or grants who have made false declarations, made substantial errors, committed irregularities or fraud may be excluded from participation in all procurement and calls for proposals.
12. Bidders who have made false declarations, committed substantial errors or irregularities or fraud may also be subject to financial penalties through the execution of the Bid Security (which may vary between 1.5 and 3% of the contract value). The bidding documents/guidelines for applicants may establish other penalties.
13. Where, after the award of the contract or during implementation, the Contracting Authority discovers that the contractor has made false declarations, substantial errors, committed irregularities or has committed fraud, the Contracting Authority may refrain from concluding the contract, suspend performance or terminate the contract, apply penalties according to the contract and/or suspend payments. If there are serious suspicions, the Contracting Authority may suspend the contract and make further enquiries before taking a decision. The Contracting Authority may also choose to seize the performance guarantee.
14. The following economic operators are not allowed to participate in procurement processes for award of SADC Secretariat contracts:
 - a) Economic operators or goods manufactured in certain countries may be excluded if, (i) as a matter of law or official regulation, the SADC Countries prohibit commercial relations with those countries, or (ii) 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 SADC Countries prohibit any import of goods from, or payments to, a particular country, person, or entity from those countries;
 - b) Government-owned enterprises and organizations, unless it can be clearly established that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the government; and
 - c) Political organizations, economic operators banned, pursuant to **Articles 9 and 10** of the SADC Procurement and Grants Policy.

2.6. Selection/qualification, evaluation and award criteria

2.6.1. Selection/qualification criteria

1. The qualification criteria are a set of requirements that applicants or bidders shall fulfil in order to demonstrate their capability to execute the contract in question. When the Open Bidding procedure is employed, the qualification criteria are also called post-qualification criteria as the compliance with the criteria is verified only for bidder/applicant recommended for the award of the contract. When the Restricted Bidding is employed, the qualification criteria is called pre-qualification criteria as the compliance with the criteria is verified during the pre-qualification and are used for developing the shortlist of economic operators invited to submit a bid (technical and financial proposal).
2. The criteria shall be objective and not discriminatory. Both, the criteria and the documents needed to prove the compliance with the qualification criteria shall be clearly stated in the procurement notice. The qualification criteria verify the technical, professional and financial capacity of the bidders/applicants. Past the submission deadline, the criteria cannot be changed.
3. The Contracting Authority may also publish criteria in addition to the financial, professional and technical ones, which are relevant to the assignment, i.e. facility resources.

4. The bidding documents/guidelines for applicants shall not contain criteria not related to the assignment, not objective or disproportionate, i.e.:
 - (a) Requesting a disproportionate annual turnover, number of staff, number of previous similar projects etc. as regards the bid. Annual turnover requested should be between one and two times the estimated contract budget.
 - (b) Using imprecise terms such as “sufficient”, “major”, “relevant” as these are not objective terms.
 - (c) Requesting information that goes further back in time more than seven years. For goods and services the information sought shall be for not longer than the past five years.
 - (d) Requesting a specific percentage of the staff working in a specific field. Number of staff working in a specific field is acceptable.
 - (e) Requesting specific experience of projects related to a single donor may be considered discriminatory.
 - (f) Requesting specific experience in a specific country, unless specific justification may be considered discriminatory.
 - (g) Requesting technical experience in an overly prescriptive manner which restricts competition to one or very few operators.
5. The qualification criteria must be specified in the specific contract notice and/or the bidding documents.
6. In case of consortium, the qualification criteria must be applied to the consortium as a whole.
7. The bidder or applicant shall be asked to indicate in the application form the economic, financial, professional and technical capacity in accordance with the qualification criteria established in the bidding documents/guidelines for applications.
8. For international and regional restricted bids for services, the supporting documents in response to eligibility and qualification criteria shall be submitted at the pre-qualification stage. Contracting Authority may request for Sworn Statement confirming the availability of the supporting documents at the pre-qualification stage and request for the supporting documents at the bidding stage.
9. For restricted applications for grants, the supporting documents in response to qualification criteria shall be submitted with the full application documents.
10. For open bidding procedure only successful bidders shall have to submit proof of complying with the qualification requirements.
11. If there is doubt about the authenticity of some of the documents, the Contracting Authority shall carry out additional checks.
12. For contracts with a value under the international thresholds (see Schedule 4 below) and grants under US\$ 350,000 the Contracting Authority may, depending on its own risk assessment, decide not to require proof, but if so is decided no pre-financing shall be granted without financial guarantee.
13. Depending on the category of procurement, the qualification criteria are the following:

(a) Technical capacity

The technical capacity is measured by having successfully implemented, during the last three to five years for services or goods or from three to eight years for works, a certain number of contracts of the same nature, complexity and price.

By similar contracts shall be understood contracts of the same nature as the contract for which the bidding process was launched, not necessarily contracts with exactly the same specifications (for

instance in case of a technical assistance in design and supervision of a highway, it shall not be looking for a firm experienced in design and supervision of highways with the same specific features as the requested highway but with general experience in technical assistance in design and supervision of highways).

Similarly, experience in a SADC country is not usually a relevant criterion; however, experience in countries with similar environment/conditions can be considered as a relevant factor for assessing the experience in implementation of similar contracts. The criteria shall be demonstrated by the provision of certified copies of similar contracts or letters of acceptance for services, goods and works from previous clients. In case of contracts for goods not manufactured by the economic operator, the proof shall be presented in a form of a statement from the manufactures or suppliers of the services and goods, confirming that the economic operator is an accredited dealer for their products and services. The above statement shall also indicate the average volume and the type of products supplied by the manufacturer or supplier and traded by the economic operator in the last three years.

If the Contracting Authority wants to confirm the quality or reliability of the manufacturer or supplier mentioned above, as the case may be, it may request from the economic operator additional information about the capacity of the manufacturer and supplier related to the quality of the goods and/or services as well as the technical support, maintenance and troubleshooting for the goods and services produced and traded by the economic operator.

(b) Professional capacity

The bidder/applicant may be requested to demonstrate availability of experienced staff, capable of performing functions required for the contract.

The requirements concerning this criterion may list the essential functions, and/or the number of years of relevant experience of the personnel needed by the economic operator to prove compliance with this criterion. The Contracting Authority shall avoid using words such as “qualified” or “licensed” as well as “Master or PhD degrees”, unless they are essential for implementation of the contract. This request may be proved by presenting a list of the available personnel and highlighting the compliance with the requirement.

(c) Financial and economic capacity

The bidder/applicant is requested to demonstrate the availability of the financial means to fully finance the estimated contract cash flow for twelve months, net of requirements for other known commitments over the period of implementation of the contract. Usually, the following aspects are taken into consideration when evaluation this criteria: i) the average annual turnover over the last three years (it shall be a minimum of three times the estimated cash flow value of the contract); ii) the average liquid funds held over the last three years shall be equivalent to the estimated contract cash flow for twelve months; iii) the average financial performance has to be positive over the last three years; and iv) the minimum net worth of the economic operator shall be the minimum equivalent of the estimated contract cash flow for twelve months. The compliance with the requirement concerning the liquid funds can also be demonstrated by providing the proof of access to a dedicated credit line, overdraft facility or other bank loans from a reputable bank, equal to the cash flow for twelve months. For contracts valued over US\$ 350,000, the proof of access to a dedicated credit line or overdraft facility shall be a mandatory requirement for proving the compliance with the liquidity criteria. For compliance with the other criteria, the economic operator shall provide certified copies of the balance sheets, audit reports and/or similar statements of the accounts, audited by certified reputable auditors or certified by the fiscal authority of the country where the economic operator is registered/incorporated.

The minimum annual turnover requested should be at least between one to three times of the amount budgeted for the specific contract in question.

(d) Facilities resources

Facilities resources is an additional criterion which might be requested for bidders competing for services, goods and/or works contracts. In such instance, bidders or applicants shall be required to

demonstrate the availability of specialized equipment, essential for the execution of the contract, or facilities to provide maintenance or technical support at the site where the general services, goods or works shall be delivered. The list of such requirements should be limited to highly specialized and/or heavy equipment, as well to service facilities critical to the execution of the contract, which cannot be easily purchased, hired or leased in the market, or readily manufactured. To prove compliance with this criterion, the economic operator shall provide documents demonstrating the ownership of the equipment or facility, or any binding agreement with a local supplier to lease or rent the equipment and/or facility, or to provide technical support for maintenance and troubleshooting.

All the documents presented by the bidder/applicant to demonstrate the compliance with the aforementioned criteria shall be in original or certified copies (by a public notary or Commissioner of Oath) and be in any of the SADC Secretariat official languages. When the documents are not written in one of the official languages, they shall be accompanied by the original certified translation into one of the SADC Secretariat official languages.

The Contracting Authority reserves the right to request the economic operator to provide additional information. The Contracting Authority may also contact any of the references mentioned in the supporting documents.

2.6.2. Evaluation criteria

1. The evaluation criteria are meant to determine the compliance of the services, goods and works offered by the bidders with the requirements stated in the bidding documents or guidelines for applicants.
2. The evaluation criteria shall be clearly stated in the Bidding Documents or Guidelines for Applicants. It shall be precise, non-discriminatory and not prejudicial to fair competition. The evaluation criteria shall under no circumstances be changed or modified during the evaluation process.
3. The Contracting Authority may use one of these two systems of evaluation for procurement processes:
 - a) **Evaluation using the merit point system:** This system of evaluation entails that merit points or weightings are assigned for each relevant or critical aspect or sub-criteria, being evaluated and compared with the requirement. In such case, in order to preserve the relevance, no aspect or sub-criteria shall be assigned less than five per-cent (5%) of the overall score. This system shall be used for fee-based services as well as for global price services.
 - b) **Evaluation on the compliance with the requirements and price:** This system of evaluation implies the comparison of the bids against the requirements. If a bid fails to comply with any critical requirement, it is automatically rejected. The technical compliant bids are ranked based on the price. This system shall be used for goods and works with technical requirements clearly defined.

2.6.3. Award criteria

Contracts are awarded on the basis of the award criteria established in the Bidding Documents in one of the following two ways:

- (a) price, in this case the contract is awarded to the bidder which, while satisfying the eligibility, qualification and evaluation criteria, quotes the lowest price;
- (b) best value for money/quality and cost (i.e. the most economically advantageous bid or best price-quality ratio). This award procedure entails the successful bid to be determined by applying a formula including the evaluation points and the offered price.

2.7. Regional preference

1. The Contracting Authority may grant a margin of preference in the evaluation of bids under open bidding and Restricted Bidding procedures to bids offering services, goods and works originating

from SADC countries, when compared to bids offering services, goods and works originating from elsewhere. In such cases, bidding documents shall clearly indicate the preference to be granted to domestic manufactured services, goods and works and the information required to establish the eligibility of a bid for such preference.

2. The nationality of the economic operator shall not be a condition for determination of the eligibility stated in paragraph 1.
3. The regional preference clause may not apply to procurement funded in whole by a cooperating partner, in which case, the regional preference may be governed by the relevant binding cooperating policy instrument.
4. In case of procurement funded in part by a cooperating partner the regional preference shall be governed by the relevant policy instrument or criteria agreed upon following negotiations between SADC Secretariat and the cooperating partner.
5. In case the agreement with cooperating partner does not provide for application of specific procurement policy this preference shall apply.
6. To this end:
 - (a) for works contracts, bids that offer at least fifty per cent (50%) construction materials, equipment and labour in contract value originating from SADC shall be accorded a ten per cent (10%) price preference on the evaluated bid price when comparing technically compliant bids.
 - (b) for goods contracts, bids that offer goods of at least fifty per cent (50%) in contract value of originating from SADC Member States shall be accorded a fifteen per cent (15%) price preference on the evaluated contract price when comparing technically compliant bids.
 - (c) for fee and global price service contracts, bids who offer at least fifty per cent (50%) in contract input (experts working days for fee-based or number of team members for global price) of experts from SADC Member States shall be accorded a fifteen per cent (15%) price preference on the evaluated contract price. When calculating price preference fees only will be considered excluding the incidental/reimbursable costs.
7. The determination of the percentage of SADC origin shall be done as following:
 - (a) for works contracts, the total value of construction materials, equipment and labour of SADC origin offered in the bid shall be divided by the total value of the bid;
 - (b) for goods contracts, the total value of goods of SADC origin offered in the bid shall be divided by the total value of the bid;
 - (c) for fee-based service contracts, the total number of working days performed by experts who are citizens or permanent residents of a SADC Member State shall be divided by the total number of key staff days in the bid.
 - (d) for global price service contracts, the total number of proposed experts who are citizens or permanent residents of a SADC Member State shall be considered when applying the preference under 6(c) above.
8. A contractor that was awarded the contract as a result of application of the margin of preference must demonstrate prior to payment of the invoices that the services, good and works indicated in the bid as having SADC origin have been delivered and they are originating or manufactured in SADC Member State.



2.8. Availability of funds and procedure with a “suspension clause”

1. As a general rule call for proposals and bidding procedures cannot be launched without a specific budgetary allocation approved thus before initiating any procedure the funds must be available. However, in exceptional circumstances, if the internal regulations and the legal frame (Convention, Contract, Contribution Agreement, Financing Agreement or other legal instrument) allow it, the procedures may be published with a suspension clause before the financing decision or the legal instrument are finally approved.
2. Under no circumstance shall a contract be awarded or signed without the adoption of the financing decision and the legal frame.
3. The bidding documents or guidelines for applicants must explicitly contain the suspension clause providing that the process may be suspended in the case of non-availability of funding. If the financing agreement and/or the legal framework are not signed, the tender/call for proposals shall be inevitably cancelled.

2.9. Cancellation of processes

1. The Contracting Authority may, before the contract is signed, abandon the procurement or grant exercise and cancel the procedure without the applicants or bidders being entitled to claim any compensation. If the process is divided into lots, a single lot may be cancelled. Cancellation may occur when:
 - (b) the bidding procedure has been unsuccessful, i.e. no qualitatively or financially worthwhile bids have been received or there is no response at all;
 - (c) the economic or technical data for the contract have been fundamentally altered;
 - (d) exceptional circumstances or Force Majeure render the normal performance of the contract impossible;
 - (e) all technically compliant bids/applications substantially exceed the available financial resources;
 - (f) there have been noted flaws in the application of procurement procedures; or
 - (g) The financial allocation becomes unavailable.
2. If a procurement process is cancelled, all applicants/bidders shall be notified in writing of the reasons for the cancellation at the earliest time (no more than seven days since the decision to cancel is taken). Furthermore, a cancellation notice shall be published on the SADC Secretariat website with the reasons for cancellation (no more than seven days since the decision to cancel is taken).
3. After cancelling a bidding procedure or call for proposals, the Contracting Authority may decide to:
 - a) launch a new process;
 - b) re-launch the previous process;
 - c) in case of procurement processes, to open negotiations with one or more bidders who participated in the bidding procedure and met the qualification criteria, provided that the original contract terms have not been substantially altered; or
 - d) not to award the contract.
4. Under no circumstances shall the Contracting Authority be liable for any damages whatsoever including, but without limitation, damages for loss of profits in any way connected with the

cancellation of a procurement process. The publication of a procurement notice does not commit the Contracting Authority to award the contract announced or accept any application or bid received.

2.10. Technical specifications and terms of reference

Technical specifications (for goods and works contracts) and terms of reference are part of the bidding documents provided by the Contracting Authority in order to give guidance and instructions to operators to submit their bids which respond to all technical and administrative requirements, and later to serve as the contractor's mandate during project implementation. The terms of reference or technical specifications shall become an annex to the contract.

2.10.1. Technical specifications

1. The Technical Specifications is the document setting out the requirements and/or objectives in respect of the provision of goods and works, specifying, where relevant, the methods and resources to be used and/or results to be achieved.
2. The Requisition Functions are responsible for the preparation of the Technical Specifications for the goods and works to be procured for the Contracting Authority. When an external contractor drafts the Technical Specifications, the Requisition Function shall be responsible for checking and approving the quality of the result.
3. When drafting Technical Specifications, detailed descriptions of technical requirements for the goods and works to be procured shall be given. Precise and clear specifications are prerequisite for bidders to respond realistically and competitively to the requirements.
4. Unless the Negotiated Procedure or Single Source procedure procurement methods are used, the technical specifications shall be prepared to permit the widest possible competition, and at the same time, make a clear statement of the required standards of workmanship to be provided, standards of supplies and performance of the goods and works to be procured. Only then, the economy, efficiency and fairness in procurement processes can be ensured and an objective evaluation procedure can be conducted.
5. For goods and works, the specification shall require all supplies to be new, unused, and of the most recent or current models, and they have to incorporate all recent improvements in design and materials. Any reference to brand names, catalogue numbers or other details that limit any materials or items to a specific manufacturer shall be avoided. Where unavoidable, such item description shall always be followed by the words "or equivalent".
6. Technical Specifications, shall be descriptive and give the full requirements in respect of, but not limited to, the following:
 - (a) standards of materials and workmanship required;
 - (b) details of all factory tests required (type and number);
 - (c) details of all work required to achieve completion;
 - (d) details of all pre-commissioning and commissioning activities to be performed by the Contractor;
 - (e) details of all ancillary services requested, such as training, installation, maintenance, storage and operational manuals; and
 - (f) details of all functional guarantees required, and liquidated damages to be applied in the event that contractual obligations are not met.



7. The Technical Specifications shall include the essential technical and performance characteristics and requirements, including maximum or minimum acceptable values.
8. When ancillary services are requested, the Technical Specifications shall provide full details about the required services allowing bidders to price them in their proposal. These details can cover aspects such as:
 - a) **in case of training:** the number of trainees, the location of training, the language of the training, the duration of the training, the requirement concerning the training materials and any other requirement;
 - b) **in case of maintenance services:** the total period to be covered by these services (which shall not exceed the duration of the contract), the type of maintenance envisaged, the frequency of maintenance, the preferred quality of expertise expected and any other requirement.
 - c) **In case of installation services:** the location of the place of installation, the complete technical details of the space where the goods will be installed (including drawings if needed), and the list of additional estimated materials requested by the contractor to perform the installation (if these are not included in the list of goods), the condition for the contractor's personnel to be given access to the site, etc.
 - d) In case of procurement of works certified experts in accordance with the international accepted standards shall draft the Technical Specification.
9. In case of procurement of goods, depending on the nature of supplies to be purchased, the Technical Specifications should address the following aspects, as appropriate:
 - (a) General Description (including the quantities, place of delivery and other conditions);
 - (b) Technical requirements;
 - (c) Functional requirements;
 - (d) Accessories and Attachments;
 - (e) Tools or Other Required Items;
 - (f) Maintenance Requirements;
 - (g) Installation Requirements;
 - (h) Spare Parts Required;
 - (i) Manuals;
 - (j) Required Performance;
 - (k) Warranty Specifications;
 - (l) Training Requirements;
 - (m) Delivery requirement;
 - (n) Storage Requirements; and
 - (o) Other Requirements.

2.10.2. Terms of reference

1. Terms of reference are key in procurement for services. It explains the objectives, scope of assignment, activities, tasks to be performed, and the respective responsibilities of the Contracting Authority or the Contracting Authority and the Contractor, including the expected results and deliverables of the assignment. Adequate and clear terms of reference are of utmost importance for the proper understanding of the assignment and its correct execution. It reduces the Contracting Authority's risk of unnecessary extra work, delays, and additional expenses. In addition, they help minimizing the risk of ambiguities during the preparation of bidders' proposals, the contract negotiation and execution of services. Drafting the terms of reference



require expertise with the type of the requested assignment and the necessary resources, as well as the familiarity with the assignment background and the environment where the assignment ought to be implemented.

2. The requisition unit shall have the responsibility for drafting terms of reference. However, when the terms of reference need to cover areas of responsibility of several units within the Contracting Authority, a working group, comprising representatives of all the concerned units with the stake in the assignment, shall be formed.
3. When an external contractor under a service contract drafts the Terms of Reference, the Requisition Function coordinating the work of the contractor shall ensure the adequacy of the Terms of References and therefore hold responsibility for their quality.
4. The terms of reference shall be approved, as part of the process of the approval of the bidding documents in which they have to be incorporated, by the relevant authority within the Contracting Authority's organizational structure, depending on the threshold and the procurement method used for procuring the services described in the terms of reference.
5. The terms of reference shall include at least the following information:
 - (a) background of the project;
 - (b) objectives of the assignment;
 - (c) scope of assignment;
 - (d) data, local services, personnel and facilities to be provided by the contractor;
 - (e) objectively verifiable indicators, list of reports, schedule of deliveries, period of performance;
 - (f) data, local services, staff, and facilities to be provided by the Contracting Authority;
 - (g) institutional arrangements, and
 - (h) downstream work.

a. The background

The background summarizes the main features of the project and describes the assignment's objectives and its general purpose. In particular, it shall include:

- (i). name of the Contracting Authority/Contracting Authority and if applicable the name of the end Beneficiary of the assignment;
- (ii). assignment location;
- (iii). rationale of the assignment ;
- (iv). assignment history (what has been already done and by whom, what is the current state of affairs where the consulting assignment is expected to continue working);
- (v). list of relevant studies and basic data;
- (vi). need for consultants in the assignment and issues to be resolved;
- (vii). source of financing for the assignment; and
- (viii). supervision arrangements.

b. The objectives

To avoid misleading the bidders or applicants, the terms of reference shall describe precisely the objectives and expected results of the assignment.



c. The Scope

1. This section of the terms of reference details the main activities (or tasks) to be conducted by the contractor and the expected results. The terms of reference should normally describe only the requested activities, not the approach or methodology to achieve the results, since these are precisely the tasks the bidders are contracted for.
2. Nevertheless, for fee-based contracts and/or for procurement procedure under Multiple Framework Contracts, if the evaluation criteria consider mostly the professional qualifications of consultants, the terms of reference shall provide suggestions on the approach or methodology that contractor should use to execute the assignment.
3. In the terms of reference, the scope of work of the assignment is usually defined by addressing the following issues:
 - (i). task to be performed by the contractors, including: definition, scope, limits, and criteria of acceptance of the assignment;
 - (ii). desired level of detail (level of design, accuracy, composition of cost estimates, and so forth);
 - (iii). span of projections (time horizon, life span of project components, and so forth);
 - (iv). necessary comparison of the assignment with similar projects;
 - (v). main issues to be addressed;
 - (vi). alternatives to be considered;
 - (vii). necessary surveys, special analyses and models;
 - (viii). special equipment requirements;
 - (ix). institutional and legal framework of the project;
 - (x). transfer of knowledge, objectives and scope;
 - (xi). language requirements;
 - (xii). units of measurement to be used;
 - (xiii). need for continuity, such as data gathering; and
 - (xiv). quality management requirements (if needed).

d. Requirements concerning the personnel and facilities to be provided by the contractor

1. The Terms of Reference shall provide detailed information regarding personnel and facilities to be provided by the contractor.
2. Generally personnel requirements are only for fee-based contracts. Global price contracts, being based in results, do not require the specific curricula qualifications.
3. Concerning the personnel requirements, these shall indicate the key expert positions and if a pool of experts is required, the qualifications, skills, general and specific professional experience for the key experts as well as for the pool of experts, the minimum number of days to be used by each key expert as well as the non key experts as a whole (not per non-key).
4. The key expert shall be considered the expert having a relative higher input in the implementation of the assignment or whose expertise is paramount for the successful implementation of the contract.
5. The requirements concerning the qualifications, skills, general and specific professional experience shall not be unjustifiably restrictive or not able to be evaluated based on the intrinsic documents. For instance, a requirement asking the expert to have a Master or PhD degree, or hold specific professional certifications, shall only be requested if they are absolutely necessary for implementing the assignment.
6. Concerning the facilities to be provided by the contractors, the terms of reference shall indicate if the consultant shall make provision for office accommodation, computers, cars or any specialized equipment or software. The terms of reference shall also indicate whether



these expenses shall be covered by the contractor under their operational expenses or by the Contracting Authority under the incidental expenses budget to be included in the contract.

7. When the facilities to be provided by the contractor are to be financed under Incidental Expenses, the terms of reference shall indicate the maximum budget for such expenses, the category of expenses eligible to be financed under the incidental budget stating that the incidental budget shall be included in the bidder's or applicant's financial proposals as a lump sum, without any modifications.

e. Objectively verifiable indicators, Reports and schedule of deliveries

1. The terms of reference shall indicate the estimated duration of the assignment, from the date of commencement to the date the Contracting Authority receives and accepts the contractor's final report or a specified completion date.
2. The assignment's reporting requirements shall be clearly specified. When possible, each task of the assignment shall have a task report as a deliverable. This is of paramount importance, in particular in the case of global price contracts, since each report might constitute a delivery (study, design, technical specification, assessment, etc), and hence be associated with payments
3. The terms of reference shall indicate the format, frequency, and content of the reports as well as the number of copies, language and the names of the prospective recipients.

f. Data, local services, staff, and facilities to be provided by the Contracting Authority

1. The terms of reference shall provide details about all the information and services to be made available by the Contracting Authority to the contractor. This may include:
 - (i) office space, vehicles, computers, printers, copiers and other office equipment;
 - (ii) list of data to be made available to the consultant, specifying the format and the language;
 - (iii) training or other facilities the consultant might have access to, free of charge (i.e., phone, internet, transportation, etc) and
 - (iv) supporting staff provided to the consultant free of charge (if any).
2. Should the assignment envisage provision of support staff by the Contracting Authority, the terms of reference shall define the hierarchy and level of authority of the counterpart staff as well as the requested level of experience of the staff to be integrated into the contractor's team. This information shall be presented as a list indicating only the function, the level of professional experience and the responsibilities of the staff in the contractor's team.

g. Institutional arrangements

The terms of reference should define the institutional setup for the implementation of the assignment. This entails the definition of the mechanism for the contractor's interaction with the assignment stakeholders. Hence, the terms of reference shall define:

- (i). the beneficiaries of the assignment ;
- (ii). the coordination authority for the assignment ;
- (iii). the reporting authority for the assignment;
- (iv). the monitoring authority for the assignment; and
- (v). the approving authority for the assignment's deliverables;

clearly defining the role and responsibilities of all the involved personnel, specifying the type, timing, and relevance of everyone's participation.



i. Downstream work

1. The terms of reference shall indicate if Contracting Authority envisages any additional or supplementary work which might be requested to the contractor following the completion or during the implementation of the main activities of the terms of reference.
2. Since any additional or supplementary work must be subject to an Addendum to the contract, the Contracting Authority shall pay particular attention when formulating these requirements so as not to breach the provisions of these Guidelines.
3. If as a result of the implementation of the activities under the terms of reference, subsequent procurement shall be generated, clear references to the potential conflict of interests between the terms of reference activities and the downstream work to be procured as result of these activities shall be mentioned.

2.11. The Evaluation Committee

1. Bids from procurement procedures and applications for grants shall be opened and evaluated by an Evaluation Committee formally and promptly appointed by the authorised person in the Contracting Authority.
2. The Evaluation Committee shall be composed of one voting Chairperson, non-voting Secretary and an even number of voting members of the Evaluations Committee, resulting in an odd number of voting members.
3. In order to maintain the confidentiality of the proceedings, participation in the Evaluation Committee meetings shall be strictly limited to the members of the Evaluation Committee formally appointed by the Contracting Authority.
4. If a member of the Evaluation Committee is unable to take part in the entire Evaluation a replacement will be appointed as per paragraph three above.
5. Opening session will be preceded by the Preparatory Session.
6. Opening session will only take place if all members of the Evaluation Committee are present.
7. The Secretary is a non-voting member, nominated from a procurement unit and conversant with the SADC rules on procurement and grants.
8. The Chairperson shall be nominated by the appointing authority and shall chair the meetings of the Evaluation Committee, as well as have the voting rights.
9. The Chairperson shall be in charge of summoning the Evaluation Committee through the Secretary; only through him/her, the Secretary shall get in touch with the bidders/applicants once the evaluation procedure has started.
10. The Secretary shall coordinate the evaluation process in accordance with the procedures, principles and regulations contained in the SADC Procurement and Grants Policy, these Guidelines and any other legal document applicable to the specific procedure.
11. The Chairperson, assisted by the Secretary of the Evaluation Committee, shall ensure the impartiality and transparency of the procedures as well as the consistency of the decisions taken by the Evaluation Committee.
12. The Secretary shall advise the Evaluation Committee on administrative matters and documents, but making sure not to influence the decisions. If a bid or proposal infringes the formal requirements, the Secretary shall advise the evaluators in deciding whether or not it



shall be considered during the rest of the evaluation process, while ensuring equal treatment of bidders and applicants and in accordance with the principle of proportionality.

13. Whatever decision is taken by the Evaluation Committee it shall be fully recorded and justified in the Evaluation Report.
14. The Secretary shall be responsible for carrying out all administrative tasks connected with the procedure, including preparing/circulating the declarations of impartiality and confidentiality; keeping the minutes of all meetings and relevant records and documents; and recording attendance at meetings and compiling the evaluation reports and their annexes.
15. The Secretary shall draft the pre-selection and evaluation reports, which shall be deliberated and signed by all members of the Evaluation Committee.
16. The Secretary, on behalf of the Evaluation Committee and on the instructions of the Chairperson, shall prepare and send the requests for clarifications to the bidders/applicants according to procedures as well as requests for interviews if need arises. Only under these circumstances may the Secretary communicate with bidders or applicants. The members of the Evaluation Committee under no other circumstance shall be allowed to communicate with the bidders/applicants.
17. The evaluators, including the Chairperson, shall have equal voting rights.
18. The evaluators shall possess the technical capacities necessary to give an informed opinion on the submitted applications or bids. If possible, the persons who developed the terms of reference/technical specifications/guidelines for applicants shall be evaluators.
19. The Contracting Authority or the institution funding the action may, if the legal frame allows it, nominate observers to the Evaluation Committee. The observers shall be non-voting members and shall not be able to intervene in the Evaluation Committee unless requested to do so by the Chairperson. The observers shall provide technical assistance to the Evaluation Committee and shall write an independent report on procedural and/or technical matters according to their terms of reference. The reports shall be circulated to the Contracting Authority and the funding institution.
20. Ex-Ante Function may attend Evaluation Committee meetings.
21. All the members of the Evaluation Committee (voting and non-voting) must be present in all the sessions. Any absence must be recorded by the Secretary and justified.
22. Only the members of the Evaluation Committee are allowed to evaluate the applications or the proposals. In the evaluation of the applications or bids, the members of the Evaluation Committee are not allowed to receive or to seek any external (e.g.: outside the members of the Evaluation Committee) support for the assessment of the bids except experts or observers officially nominated under para 17.
23. The members of the Evaluation committee meetings shall be collectively and individually accountable for any decision and the recommendations made by the Evaluation committee.
24. The Evaluation committee shall be formed before the bid/application opening session to ensure the availability of the designated members during the period necessary to prepare and conduct the evaluation process.



25. The evaluation shall be completed as soon as possible to allow the successful bidder/applicant to be notified by the Contracting Authority (after all necessary approvals) within the validity period specified in the solicitation documents.
26. The Evaluation Committee shall make its recommendation through an evaluation report, which shall be presented to the competent authority for approval.
27. Once the competent authority approves the evaluation report, the Secretary of the Evaluation Committee shall proceed with the awarding and contracting procedures according to the provisions contained in these Guidelines and the content of the evaluation report.
28. The bids/applications and other working documents of the Evaluation Committee shall be kept in a safe place when not in use. The documents are confidential and shall not be shared to anyone outside the Evaluation Committee.

2.12. Validity of the bids/applications

1. Bidders/applicants are bound by their bids for the period of bid validity specified in the bidding documents.
2. In Restricted Bidding procedure the period shall be also indicated in the letter of invitation. This period (normally 90 days from the deadline for the submission of bids/applications) should be enough for the Contracting Authority to finish all the steps leading to contract signature.
3. In case the 90 days are not sufficient, the Secretary of the Evaluation Committee, with the agreement of the Evaluation Committee, must request an extension from the bidders/applicants. The bidders shall be free to accept the extension or not in which case they shall be excluded from the procedure.

2.13. Award/contract signature and publishing of the contract

2.13.1 Award

1. The Contracting Authority shall, before issuing the notice of award to a successful bidder, issue a notice of intention to award the contract to all bidders who participated in the process by giving them ten (15) days within which to submit a complaint to the Contracting Authority, if any. This notice shall be published at the SADC Secretariat's web site and must contain name of successful economic bidder, applicant, contract sum, and completion of delivery period.
2. The requirement in para 2.13.1 above shall not apply to:
 - (a) cases of emergency procurement if circumstances does not allow issuance of notice of intention to award the contract;
 - (b) small procurement transactions below USD 2,000 where no written contract is required.
3. The Contracting Authority shall issue an official response to the complaints within seven days from the receipt of Complaints stated in para 2.13.1 above.
4. Before the period of validity of bids expires, and on the basis of the approved evaluations report, the Contracting Authority shall notify the successful bidder in writing that its offer has been accepted; if the case, it shall draw attention to any arithmetical errors corrected during the evaluation process requesting the applicant/bidder to accept such correction; it shall request the bidder to reconfirm the validity of their bid and, when necessary and foreseen in the bidding documents it shall invite the bidder to produce supporting documents.



5. If more than one hundred and twenty (120) days have elapsed from the deadline from submission of the bids to the date of notification of the successful bidder, the successful bidder shall be requested to produce updated information to demonstrate that they are continuing to satisfy the pre-qualification (pre or post) criteria set in the solicitation documents. For this purpose the bidder shall be given fifteen (15) days to produce updated supporting documents demonstrating the compliance with the qualification criteria. Such requirement shall be indicated in the notification letter.
6. The Evaluation Committee which evaluated the bid in the first instance shall conduct such verification. The findings shall be documented in a report, which shall and be subject to approval of the Contracting Authority.
7. Failing to produce the documents demonstrating the compliance with the qualification criteria within the given timeframe or failing to demonstrate compliance with the qualification criteria shall lead to the rejection of the bid. In such instance, the next responsive qualified bidder shall be awarded the contract, provided that it satisfies the qualification (pre or post) criteria. In case of call for proposals the Evaluation Committee shall propose awarding the contract to the highest-ranking applicant on the reserve list. In case that there is no compliant bidder the Evaluation Committee shall recommend cancelling the procedure.
8. Except in the case of Negotiated Procedure or Single Source procedure methods is employed, no negotiations of contract shall be permitted with the successful bidder prior to the award of any contract for services, goods and works.
9. The negotiation shall be documented in a report which shall be attached as annex to the contract.

2.13.2 Contract preparation

1. When preparing the contract for signature, the Contracting Authority must proceed as follows:
2. The Procurement Function of the Evaluation Committee with the necessary approvals and the confirmation of availability of funding, shall prepare a contract dossier containing the following:
 - (a) Explanatory note;
 - (b) Copy of the legal frame authorising the project (financing agreement, convention, contract or other relevant legal instruments);
 - (c) Copy of the call/tender;
 - (d) The original of the proposed contract; and
 - (e) Evaluation report.
3. Upon presentation of the contract dossier, the competent official shall sign and date all originals of the contract and initial all pages of the contract. Grant contracts must be signed within 3 months from the date of notification of the evaluation results.
4. The Procurement Function shall send the contracts to the successful bidder/applicant who must countersign them within 30 days of receipt (or within such a period as requested by the Contracting Authority), keep one original and return the rest to the Contracting Authority together with any financial guarantee required in the bidding documents.
5. If the contractor fails to countersign and return the contract within deadline as per paragraph (4) above, the contract award will be nullified. In this case the contract preparation procedure must be re-started from step one above with the next highest-ranking responsive bidder.
6. The Secretary of the Evaluation Committee shall check that the natural person who signs the contract for the contractor has a valid power of attorney.



7. The contract shall be signed in at least four originals (three for the Contracting Authority and one for the contractor) although the specific bid/call for proposals may demand more originals (i.e. for funding authority).

2.13.3 Publicizing the award of the contract

1. The Procurement Entity shall inform applicants/bidders of the award of the contract as in fifteen days (15) after the lapse of the (15) fifteen days cool off period unless the proceedings have been suspended according to chapter 7 of these Guidelines.
2. Once the contract has been signed, the Contracting Authority shall prepare Contract Award Notice using the standard template and publish it according to SADC publication guidelines.
3. The award notice shall be published within maximum fifteen (15) days from the signing of the contract by the parties.
4. In the case of call for proposals, the Contracting Authority shall publish, according to SADC publication guidelines the list of beneficiaries. The list shall include at least the amounts awarded by beneficiary, the co-financing, the beneficiaries' names and that of the projects financed.

2.14. Contract modification: addendum

1. Contracts may be subject to modification during implementation provided that the following principles are observed:
 - (a) Contract modifications shall be formalized through an administrative order or an addendum to the contract in accordance with the provisions of the General Conditions of the Contract and accepted by contracting parties.
 - (b) No modification to the contract may alter the award conditions prevailing at the time the contract was awarded.
 - (c) Any modification of the contract value shall not exceed an aggregate amount of up to twenty five percent (25%) of the original contract amount.
 - (d) Any modification of the duration of the contract shall not exceed an aggregate of maximum of one hundred percent (100%) of the duration of the initial contract.
 - (e) All modification shall be signed by contracting parties prior to the expiration of the contract.
 - (f) All variations under this clause shall be approved by the Executive Secretary or a delegated authority in case the attribution is delegated by the Executive Secretary.
2. Both parties must agree any modification in the implementation period, budget, scope of the contract or any other substantial contract element.
3. Contract modifications shall not have retroactive effect.
4. The modifications of the contract must be done through addendum or administrative order agreed by both parties.
5. Requests for contract modifications shall be made (by one contracting party to the other) well in advance to allow for the addendum to be signed by both parties before the expiry of the execution period of the contract.
6. Addenda enter into force the date of later signature unless there is a specific provision for entering into force in the contract or the specific addendum.



7. The responsibility for preparing addenda rests with the Procurement Function, obliged to proceed as follows:
- a) Preparing the addendum: this is the responsibility of the Procurement Function. It shall use the standard template for drafting the addendum. All references in the proposed addendum to article number or annexes to be modified shall correspond to those in the initial contract. Any addendum modifying the budget shall include a replacement budget showing how the full budget breakdown of the initial contract has been modified by this addendum (and any other previous addenda). If the budget is modified by the proposed addendum, the payment schedule shall also be accordingly modified, taking into account any payments already made in the course of the contract. The payment schedule shall not be modified unless the budget is being modified or the contract extended.
 - b) Prepare a file comprising the following items:
 - i. Explanatory note providing technical and financial justification for making the modifications in the proposed addendum. The explanatory note shall be prepared by the contracting party which initiated the request for addendum.
 - ii. Copy of the request for (or agreement to) the proposed modifications (i.e. all the communications between the contracting parties leading to the addendum, including the official request).
 - iii. Five originals of the proposed addendum, based on the standard addendum template and including any revised annexes.
 - c) Secure the approval and the signing of the addendum: the addendum shall be subject of the same approval procedures and signed by the same authority signing the contract, as stipulated in these Guidelines.
 - d) Secure the Contractor signature of the addendum: after the approval and signature of the addendum, all five originals shall be sent to the Contractor for signature. The Contractor shall countersign and initial them within the established period (maximum fifteen days of receipt), keep one and return four original to the Contracting Authority together with the Financial Guarantee if applicable.
 - e) Circulate the addendum among the SADC Secretariat's units: on receipt of the four signed originals from the Contractor, the procurement unit shall send the other originals to the relevant units according to Schedule 2.

2.15. Record keeping

1. The Contracting Authority shall maintain records of each step taken during the procurement/grant process.
2. Subject to the SADC Secretariat's policy on access to documents, these records shall be kept confidential and kept in accordance with the SADC Secretariat policy on archiving.
3. The period for which the procurement information will be kept and be made accessible to the public shall be minimum seven (7) years from the date of the final payment. The contractual and financial documents have to be kept for a minimum period of seven (7) years from payment of the balance and up to the date of the decision of any dispute action regarding the contract. During and after this period, the Contracting Authority shall treat the personal data in conformity with its privacy policy.
4. The documents to be conserved shall include all the preparatory documents, the originals of all applications/bids submitted and any related correspondence.



5. It is recommended for each bid/call for proposals a separate file to be opened and maintained. The record should be kept either in paper or electronic form.
6. Upon completion of procurement/grant processes and in accordance with SADC Secretariat policy on access to documents, natural persons authorized by Procurement Function can inspect the procurement/grant documents following written justified request.

2.16. Guarantees for bidding and contract implementation

2.16.1 The SADC Secretariat Guidelines recognize four types of securities, all of which have to be issued by the reputable financial institution in Botswana, acceptable to the Contracting Authority, commensurate with the size and nature of the contract:

(a) **Bid Security:**

1. It is a precautionary measure by which the Contracting Authority requires all bidders to provide a guarantee to the bidding process, and in the event they are awarded a SADC Secretariat contract under the terms and conditions indicated in the bidding documents, the bidder must not refuse it. The Bid Security is given by the bidders in procurements of goods, services and works (never to applicants for grants) in the amount requested in the bidding documents, which should be between 1% and 5% of the total estimated value of the contract. The Contracting Authority may forfeit the guarantee in case the winning bidder refuses to sign the contract in the conditions of its own bid and in any other case stipulated in the bidding documents. The Bid Security must be returned to bidders after the contract is awarded and signed. The Bid Security is regulated in article 43 of the SADC Procurement and Grants Policy.
2. When the Contracting Authority requires economic operators submitting bids, to provide a bid security (tender guarantee):
 - (i) The requirement shall apply to all such economic operators;
 - (ii) The bidding documents shall stipulate eligible issuer of the bid security and the confirmer, if any, as well as the form and terms that shall be acceptable to the Contracting Authority;
 - (iii) The Bidding documents may impose the obligation of providing Bid Securities by institutions legally established in the country of implementation of the contract or the country of the Contracting Authority;
 - (iv) Notwithstanding the provisions of subparagraph (ii) of this paragraph, a bid security shall not be rejected by the Contracting Authority on the grounds that the bid security was not issued by an issuer accepted by the Contracting Authority unless such issuer was clearly identified in the bidding document as unacceptable issuer;
 - (v) Prior to submitting a bid, an economic operator may request the Contracting Authority to confirm the acceptability of a proposed issuer of a bid security, or of a proposed confirmer. The Contracting Authority shall respond promptly to such a request;
 - (vi) Confirmation of the acceptability of a proposed issuer or of any proposed confirmer does not preclude the Contracting Authority from rejecting the bid security on the ground that the issuer or the confirmer, as the case may be, has become insolvent or otherwise lacks creditworthiness;
 - (vii) The Contracting Authority shall specify in the bidding documents all requirements with respect to the nature, format, amount and other principal terms and conditions of the required bid security; any requirement that refers directly or indirectly to the conduct of the shortlisted economic operator submitting the bid shall be limited to:
 - (a) withdrawal or modification of the bid after the deadline for submission of bids,



- (b) failure to sign the procurement contract if required by the Contracting Authority to do so; and
 - (c) failure to provide a required security for the performance of the contract after the bid has been accepted or to comply with any other condition specified in the bidding documents, precedent to signing the procurement contract.
- 3. The Contracting Authority shall make no claim to the amount of the bid security, and shall promptly return, the bid security document, after whichever of the following that occurs earliest:
 - (a) The expiry of the bid validity;
 - (b) The entry into force of a procurement contract and the provision of a security for the performance of the contract, if such a security is required by the bidding documents;
 - (c) The termination of the bidding process without the entry into force of a procurement contract;or
 - (d) The withdrawal of the bid prior to the deadline for the submission of bids.

(b) ***Performance Security:***

It is a precautionary measure by which Procuring Entity requires a Contractor, upon signature of a SADC Secretariat contract, to provide guarantees to fulfil their contractual obligations as stipulated in contract. The Contractor, together with the contract signed, must provide the Performance Security. The Performance Security may be requested to contractors for goods and works. Performance security is 10% of the contract in works contracts. In goods it may be from 5 to 10%.

(c) ***Advance Payment Guarantee:***

It is a precautionary measure by which Contracting Authority requires a Contractor upon signature of a SADC Secretariat contract, to provide a guarantee to cover for the amount received by Contractor as an advance payment under the contract. The Advance Payment Guarantee shall be requested to contractors for goods, services, works and grants prior to making an advance payment. It should guarantee for the full amount of the pre-finance and may be released as the pre-finance is recovered.

(d) ***Retention Money Guarantee:***

It is a precautionary measure by which the Contracting Authority requires a works contractor (not used for services or grants), upon provisional acceptance of goods or works to provide a guarantee to fulfil its contractual obligations during the period between provisional acceptance and final acceptance of the works (usually one year). It is a percentage (often between 5% and 10%) of the amount certified as due to the contractor on an interim, that is deducted from the amount due and retained by the Contracting Authority.

2.16.2 All securities shall be in the amount specified by Contracting Authority (in the bidding documents or in the Contract), denominated in US\$, and shall be:

- a) in a form of unconditional bank guarantee;
- b) issued by a reputable financial institution selected by the bidder or contractor and acceptable to SADC Secretariat. It shall have a correspondent reputable financial institution located in Botswana to make it enforceable;
- c) in accordance with the standard template or other form approved by the Contracting Authority prior to submission;
- d) promptly payable upon a written demand by the Contracting Authority, in case the conditions for forfeiture are met; be submitted in its original form; copies shall not be accepted; and

- e) valid for a period indicated in the bidding documents.
- 2.16.3 At any time, the Contracting Authority may reject the bidder's or contractor's choice of the financial institution issuing the security, by giving a written explanation for such decision. In that case the bidder or contractor shall provide another security issued by a financial institution acceptable to the Contracting Authority and then cancel the security with the financial institution not acceptable to Contracting Authority, in this precise order.
- 2.16.4 The Contracting Authority shall release the security to the bidder or contractor up to a maximum of thirty (30) days from the security expiration date.

2.17. Management modalities

1. The SADC Secretariat works in close cooperation with various intergovernmental international financing institutions or international donors and Member States to implement jointly financed programmes, projects and/or activities. Whenever SADC Secretariat jointly co-finances programmes/projects/activities with other international organizations, donors or Member States it may allow the application of alternative procurement rules, including the national procurement rules.
2. Such exemption to the application of the SADC Secretariat Procurement Policy shall not prevent SADC Secretariat from conducting financial and procurement audits of the programme/project/activity. Whenever the financial or procurement audit identifies deviation from core SADC Secretariat Procurement Policy principles or SADC Financial Regulation, SADC Secretariat shall take the necessary remedy actions to protect its financial interest and safeguard the principles laid down in the SADC Secretariat Financial Regulations and Procurement and Grants Policy.
3. SADC Secretariat may delegate the implementation of its programmes/projects/activities to implementation structures in the Member States. In such cases, the procurement responsibility may be delegated to the respective implementation structure in the Member State, under the obligation of observing in full the provision of SADC Procurement and Grants Policy and these Guidelines. In such cases, all procurement processes conducted by SADC Secretariat implementation structures in the Member States using SADC Secretariat funds, shall be subject to SADC Secretariat review, as defined in the SADC Secretariat Procurement and Grants Policy and these Guidelines.

2.18. The bidder/the applicant/the consortium

1. Bidders are the economic operators submitting bids for procurement of goods, services or works while Applicants are operators submitting an application to a call for proposals for grants (see chapter 6 of these Guidelines).
2. When competing for a SADC Secretariat contract, any economic operator, natural or legal person may submit an application or bid independently or in joint venture or consortium with other economic operators, individuals and entities provided they legally confirm joint and several liabilities for the bid in case of winning a contract for the implementation of the contract.
3. A joint venture or consortium may be either a permanent legally established group or a group constituted informally for the purpose to apply, bid and undertake a specific SADC Secretariat contract. In every case, all members of a joint venture or consortium are jointly and severally liable to the SADC Secretariat in relation to the application, bid, offer or contract for which it was constituted.
4. Applications and bids submitted by a joint venture or consortium of two or more economic operators shall also comply with the following requirements:



- a) the application and the bid shall be signed to be legally binding on all members;
 - b) the application and the bid shall be accompanied by the original legally binding agreement for all members; the document has to be witnessed by a Public Notary or a Commissioner of Oath; and
 - c) the agreement legally binding the members of the joint venture or consortium shall include the following mandatory provisions:
 - i. one of the members shall be nominated in charge, and this nomination shall be evidenced by submitting a power of attorney signed by legally authorized signatory members;
 - ii. the member in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all the members of the joint venture or consortium. The entire communication during the bidding processes and during the execution of the contract, including those related to payments, shall be made exclusively with the member in charge (leader);
 - d) if the joint venture or consortium are awarded the contract, all members of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contractual terms; and
 - d) the members of the joint venture or consortium are not allowed to leave the joint venture or consortium, and decline their responsibilities without the Contracting Authority's written approval, or until they have been notified by the Contracting Authority that the contract was not awarded to the joint venture or consortium, or in the event they were awarded the contract, until the liability period indicated of the contract expires.
5. In case of applications or bids submitted by a joint venture or consortium, each member shall demonstrate that they fulfil the eligibility criteria set in the Prequalification Documents, the Bidding Documents and/or the Guidelines for Applicants. If one single member fails to demonstrate the compliance with the eligibility criteria, the whole joint venture or consortium shall be considered non-eligible.
 6. Regarding the compliance with the qualification criteria, an application or a bid submitted by a joint venture or consortium shall satisfy the qualification requirements as a whole and not as individual member of the joint venture or consortium.
 7. To avoid distortion of competition and eliminate possible corrupt practices, an economic operator and its affiliates, individually or as member of a joint venture or consortium, shall submit only one application or bid for the same Contracting Authority contract.
 8. If an economic operator submits, individually or as member of a joint venture or consortium, more than one bid for the same contract, all the bids submitted by the economic operator shall be rejected and the economic operator shall be banned from participating for a minimum of two (2) and a maximum of (5) years in any other SADC Secretariat procurement or grant award process.
 9. The restriction concerning the participation in more than one application or bid shall not apply to sub-contractors or personnel.
 10. The Contracting Authority does not acknowledge or undertake any obligations towards the sub-contractors or personnel of the economic operator participating in a procurement process.
 11. The composition of the joint venture or consortium shall not change after pre-qualification or during the implementation of a contract awarded to the joint venture or consortium without prior approval. The Contracting Authority shall approve the change in the composition of the joint venture or consortium composition only if the modification: (i) is supported by solid and objective arguments, (ii) does not alter the competition, (iii) is not generating a conflict, and (iv) is not



invalidating the criteria and conditions in place when the joint venture or consortium was prequalified or awarded the contract.

2.19. Planning

2.19.1 Introduction

1. Procurement and Grant planning is essential for the effective and timely launching of the procurement and grant processes, award of contracts and delivery of the required services, goods and/or works and contracting of the grants. Moreover, procurement and grant planning also enables the Contracting Authority to better manage its resources to obtain value for money, by identifying the appropriate procurement category and method for the acquisition of the necessary services, goods and/or works as well as to plan properly calls for proposals. Clearly, the procurement and grant planning is a vital and mandatory function of the SADC Secretariat procurement and grant system. The procurement and grants plan serves as a monitoring tool for assessing the performance of the various departments engaged in the procurement processes.
2. The Coordination of the procurement planning functioning shall be the responsibility of the Procurement Function. However, in order to avoid duplication of activities and inconsistencies, the procurement and grant planning shall be integrated within the budgeting and planning of the SADC Secretariat.
3. The Requisition Function responsibilities in the procurement planning are the following:
 - a) identify the specific needs of their own unit;
 - b) estimate the time when these needs will be required;
 - c) estimate the cost of procuring the needs;
 - d) secure the funding through budgetary allocations for the needs;
 - e) prepare the Annual Procurement Plan for their Requisition Function;
 - f) provide bi-annual updates of the Annual Procurement Plans; and
 - g) assist the Procurement Function in compiling all Annual Procurement Plans for the SADC Secretariat.
4. The role of The Procurement Function in the procurement planning process is to:
 - a) compile the Overall Procurement Plan of the SADC Secretariat based on the annual procurement plans provided by the Requisition Functions;
 - b) identify and formulate the strategy for procurement of the services, goods and works needed by the Contracting Authority, by recognizing synergies among the needs of the various Requisition Functions and selecting the most suitable procurement processes to acquire the needed services, goods and works;
 - c) monitor the performance of the implementation plan and take action to remedy the deviations from the set objectives on biannual basis;
 - d) gather the biannual revised Overall Procurement Plan and the monitoring report of the procurement performance stated above; and
 - e) Identify and formulate the strategy for launching calls for proposals planned by the institution.

2.19.2. Annual Procurement and Grant Plan

1. The Requisition Function shall start preparing the Annual Procurement and Grant Plan at least three (3) months prior to the commencement of fiscal year, since the identifications of needs and estimating the cost for procuring might become a very time consuming process.



2. In the process of drafting an annual procurement and grant plan, each Requisition Function shall start by putting together a list of all known goods, works and services to perform their mandate within the Institution, as well as a list of the calls for proposals planned. Once the list is drawn, a market research shall be conducted to estimate the cost and the particular market conditions for the required services, goods and works. The list shall also identify the timing when the Requisition Function shall require the services, goods or works.
3. The Requisition Function shall prepare the annual procurement and grant plan using the standard template.
4. The procurement plans shall be subject to approval of the Head of the Function under which the Requisition Function operates before being sent to the Procurement Function.

2.19.3. Overall Procurement Plan

1. As part of the annual budget process, the Procurement Function in collaboration with the Financial Department and the Directorate of Policy, Planning and Resource Mobilization, shall meet on annual basis with each Requisition Function to set up spending plans for the forthcoming budget period(s). This information shall be consolidated in the annual procurement plans.
2. The Annual Procurement and Grants Plans prepared by the Requisition Functions become the basis for the Overall Procurement Plan. The Overall Procurement Plan shall establish how items of the Annual Procurement and Grants Plans should be combined or divided into different contract packages and calls for proposals; what method of procurement/selection shall be used for each one; the scheduling for procurement activities and how the responsibilities shall be cascaded during the implementation of the procurement activities.
3. The Procurement Function shall coordinate the process since the consolidation of the annual procurement and grants plans into the overall one implies a strategic decision about how procurement and contracting shall be executed.
4. The main objective to be observed when putting together the Overall Procurement and Grants Plan, is to look for similar needs among the various Requisition Function, in order to obtain economy of scale in procurement and management of contracts.
5. Each procurement method has particular requirements in terms of procedures and implementation time- After the preliminary packaging plans have been formulated and the methods of procurement or selection for each tentatively determined by the nature and size of the packages, it is necessary to verify whether the services, goods and works will be delivered when they are required by the Requisition Function. The best way to check it is to work backwards starting from the desired date of delivery and determine whether sufficient time is available to carry out all the necessary procurement steps for each item. Should the timing not be suitable, a different method of packaging and/or acquisition shall be considered. Sometimes it may be determined that no other approach is agreeable for a particular project component, and the time cannot be shortened by changing packaging or procurement/selection methods. In no case the procurement plans shall promote artificial splitting on non-competitive procurement methods based on the ground of urgency.
6. The consolidated overall procurement plan shall be presented in the standard template.
7. The Overall Procurement Plan shall be reviewed by the Deputy Executive Secretary Corporate Affairs.



8. The approved Overall Procurement and Grant Plan shall be posted on the SADC secretariat website, within five (5) days after approval.

2.19.4. Market survey

1. It is expected that in the process of identifying needs and estimating the budget for procurement of such needs, the Requisition Function will conduct technical research into the economic sector that produces and delivers the services, goods and works needed, as well as participating in professional discussions in various forums to keep abreast of technological and other developments within their area of expertise.
2. However, in case of complex services, installations and works, when a simple market research is not adequate to determine the market conditions and technical requirements, the Requisition Function shall consider employing consultants to conduct the market survey and prepare the technical specifications or the terms of references for the needs of the Institution. In such case, the procedures to employ the contractor for conducting the market survey and develop the technical specifications or the terms of references shall commence within at least six (6) months prior to preparation of the Overall Procurement Plan.
3. To conduct the market survey the Requisition Function may:
 - (a) Review the procurement database for identifying recent procurement processes aiming at acquiring similar needs;
 - (b) Review the results of recent market surveys undertaken to meet similar needs;
 - (c) Conduct internet inquires with the industry;
 - (d) Obtain lists of similar items from other agencies, trade Institutions or other sources;
 - (e) Review catalogues and other product literature; or
 - (f) Employ external technical assistance to assist surveying the market, developing technical specifications or terms of reference, estimating the budget and assisting the evaluation of bids.
4. Under no circumstance a procurement process shall be launched with the only purpose to assess the market conditions.
5. The results of the market research shall be documented and kept by the Requisition Function.

2.19.5. Modification and updating of the Procurement Plan and Overall Procurement Plans

1. During project execution, the original procurement and grants plans shall be regularly monitored and updated to compare the actual performance with the planned activities, and to make changes or necessary adjustments in the plan. The need for changes simply demonstrates that planning is a dynamic process rather than a static picture.
2. The Procurement Function shall review the procurement performance on a bi-annual basis. The objective of the review is not fault finding but rather to:
 - (a) gain better understanding of the causes and reasons for delays or changes in plans;
 - (b) maintain efficiency in the procurement operations; and
 - (c) improve forecasting and planning for similar operations.
3. If slippage occurs in the award or execution of one major contract, it may require rescheduling of other related contract awards and deliveries of products.



4. The process of bi-annual review of the overall procurement plan shall be conducted following the procedures established for the initial overall procurement plan.

2.20. Virtual operation and electronic files

2.20.1 Introduction

1. Contracting Authority or Procuring Entity may conduct procurement virtually considering the prevailing situation that do not allow physical exchange of documents and face to face meetings.
2. During the course of preparation of procurement related documentation all staff involved will use the same e-mail thread that will serve as audit trail.
3. Approvals of various stages and documents throughout the procurement process will be acceptable via official SADC e-mail.
4. When more than one staff member is involved in approval/signing the document all concerned staff will sign the same document.

2.20.2 Invitation to bid and receipt of bids

1. All documentation for open bidding will be published as per Annex 1 of these Guidelines.
2. The e-mail address of the Procurement Officer responsible of a particular procurement will be used for issuing invitations and sending bidding documents for restricted bidding and framework contracts, as well as for issuing addenda and clarifications.
3. Unique e-mail address will be created for every procurement opportunity for the receipt of bids.
4. Password for e-mail address under 2.20.3(3) will be unique and will not be shared with the Tender Evaluation Committee and its Secretary until the Tender Opening Session.
5. Designated staff member from ICT will participate in the Tender Opening Session in order to provide the Evaluation Committee with the password, after which his/her participation will not be required.
6. Staff member from ICT will be bound to same principles of Confidentiality and Impartiality as other members of the Evaluation Committee.
7. Staff member from ICT will be considered as an Observer and will sign the Confidentiality and Impartiality form as any other member of the Evaluation Committee.

2.20.3 Evaluations

Evaluations/selection of applications may be done virtually and in accordance with section 2.11 of these Guidelines.

2.20.4 Record-keeping

Electronic copies of all documentation shall be kept on SADC electronic platform in consultation with Records Management Unit.



3. Procurement of Services

3.1. Type of service contracts (fee-based or global price)

1. A service contract is an agreement whereby a contractor provides time, effort and/or expertise in exchange for remuneration. Service contracts can be global price or a fee-based contracts.
2. **Global price service contract:** means a service contract under which the services provided are paid on the basis of the delivery of the specified outputs (result/product-based contracts). These are commonly used for public relations contracts, studies, communication campaigns, evaluations, audits, training and organization of events. In global price contracts the bidder presents its intentions in terms of mobilization of means, however, during the implementation, the technical and operational means by which the contractor achieves the specified output are not relevant for the measurement method. Global price contracts are evaluated through the presentation of experts and their profiles, but there are no specifics in the Terms of Reference or the Contract in terms of number of days required for the input by the expert/team to be provided.

Under a global price contract the Contracting Authority shall pay the contractor a fixed sum of money upon submission and approval of the deliverables indicated in the contract. These contracts are easy to administer and require limited supervision from Contracting Authority, however the mechanisms to ensure the quality of deliverables should be put in place in the specific contract.

3. **Fee-based/time based contract:** means a service contract under which the services are provided on the basis of fixed fee rates for each day worked by consultants. These are activity-based contracts, which might be used for technical assistance and supervision. Fee-based contracts are evaluated through the presentation of curricula of experts as well as the technical and financial proposal.

Under this type of contracts, the contractor provides services on a time basis, according to quality specifications and the contractor's remuneration is based on agreed unit rates for contractor's staff, multiplied by the actual time spent by the staff executing the assignment.

Fee-based contracts are preferred when the specific outputs are unknown or difficult to define in advance and the main objective of the contract is to give support on a continuous basis; when the outputs are known and easy to define global price contracts are more appropriate. These contracts require the Contracting Authority to closely supervise the contractor.

Some contracts may include activities which are fee-based and others which are global price (i.e. design and supervision contracts). In these cases each item should have a clear method of measurement and verification.

4. **Framework Contract:** is an agreement between the Contracting Authority and one or more contractors, which sets out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the agreement. The aim of the framework contract is to improve efficiency and lower costs due to economies of scale.

The framework contract does not legally commit the Contracting Authority to procure any of the services offered by the contractor, but secures their access to a restrictive competition and speeds up the procurement process.

The framework may not indicate the precise quantities to be ordered by the Contracting Authority during the contract term. However, it shall indicate the estimated overall budget over a period of time. Under no circumstance the maximum volume of procurement shall exceed the budgetary allocation.

Framework contracts require intensive monitoring and administrative support from the Contracting Authority.

Specific Contracts awarded under the Framework Contract can be both fee-based and global price.

3.2. Preparation of cost estimates to determine the contract value

1. The value of the contracts shall be estimated during the preparation of the Annual Procurement Plan, and included in the Overall Procurement Plan. However, prior to the initiating a procurement process, the Requisition Function needs to estimate the cost of each category of expenses against the services required in the terms of reference.
2. The cost estimate shall include, as necessary, expenses relating to:
 - (a) consultant staff remuneration;
 - (b) travel and transport;
 - (c) mobilization and demobilization;
 - (d) staff allowances (per-diem, travel allowances, insurances, etc);
 - (e) communications;
 - (f) office rent, supplies, equipment, shipping, and insurance;
 - (g) surveys and training programs;
 - (h) report translation and printing;
 - (i) overheads, profit margin, taxes and duties; and
 - (j) contingencies.
3. The estimation of the cost for fee-based contracts relies on the approximated allocation of personnel (expert fees per day) required for carrying out the services, taking into account the level and area of required expertise. It is important to define these inputs as accurately and realistically as possible to avoid failures in the procurement process. To estimate the cost of this expense, the Contracting Authority's own operational expenses should be taken as a reference. However, to obtain the estimated total cost of the contract, the Requisition Function shall also include the cost of the insurances, the overheads, the profit margin, and the taxes and duties the contractor has to pay under the contract.
4. If the estimated total cost of the contract exceeds the available budget (as per the Overall Procurement Plan and budgetary allocation), the Requisition Function shall revise the terms of reference and reduce, if possible, the scope of the assignment to match the available budget. The terms of reference may indicate that the Contracting Authority shall reserve the right to request the contractors to provide additional services under the contract, provided it will obtain additional funds to secure payments for the required additional services. In that case, the additional services shall be briefly defined in the terms of reference.
5. Bidding may also be carried out with the suspension clause, but cannot go pass the Evaluation stage without budget being allocated, commensurate with the size and nature of the contract.
6. The estimated value shall be deployed in the full Bidding Documents. The Bidders shall not be allowed to quote a value higher than the estimated except for Negotiated Procedure.

3.3. Procurement Procedures for Services

3.3.1. Contracts with a value of 250,000 US\$ and above.

1. All service contracts estimated at US\$ 250.000 or above will be tendered through Restricted Bidding (Schedule 3) unless a specific derogation form the competent authority allows the use of a different procedure.



2. The Restricted Bidding shall be international, regional or local according to the thresholds established in Schedule 4.

3.3.2. Contracts with a value of 50,000 and below 250,000 US\$

1. Contracts with an estimated value of US\$ 50.000 and below US\$ 250.000 will be tendered through Limited Bidding unless a specific derogation from the competent authority allows the use of a different procedure.
2. The Contracting Authority must justify why and how the economic operators invited to present bids were selected.

3.3.3. Contracts with a value of 2,000 and below 50,000 US\$

1. Contracts with an estimated value of 2.000 and below 50.000 US\$ may be tendered through Negotiated Procedure with a minimum of two bidders for procedure with publication and a minimum of one bidder for procedure without publication. The Contracting Authority must justify why and how the economic operators invited to present bids were selected.
2. For contracts under US\$ 10.000 the Contracting Authority shall use simplified Bidding Documents.

3.3.4. Exceptional procedures

1. In exceptional cases, with the prior approval of the competent SADC Secretariat authority in line with the SADC Procurement and Grants Policy, the Contracting Authority may use Limited Bidding or Negotiated Procedure for services over the mentioned ceilings according to programme/legal frame and as prescribed in these Guidelines.
2. The Contracting Authority may use the exceptional procedures on the following cases:
 - a. There was previously an unsuccessful restricted procedure and the Contracting Authority cannot launch a new procurement process due to emergency reasons or adverse market conditions which prevent open competition. In this case, if less than three economic operators qualified, the Negotiated Procedure without publication should be started with the one or two operators that prequalified. In case that none of the bidders prequalified, the Contracting Authority may engage with third party operator(s).
 - b. For the purchase of terms on particularly advantageous terms as specified in the SADC Procurement and Grants Policy.
 - c. For services which due to safety and security reasons can only be procured from a limited reputable source.
 - d. For reasons of extreme urgency brought about by events which the Contracting Authorities could not have foreseen and which can in no way be attributed to them.
 - e. Where the services are entrusted to public sector bodies or to non-profit institutions and relate to activities of an institutional nature or designed to provide to people in the social field.
3. The use of exceptional procedures requires specific authorisations and must be justified in detail and approved according to SADC Secretariat rules and regulations.
4. Under no circumstances shall contracts be split to avoid/manipulate thresholds.

3.4. Restricted Bidding and Limited Bidding for services

1. Both procedures are made of two steps in which the first step is pre-qualification and the second step an invitation to bid to pre-qualified/shortlisted bidders only.



2. In a restricted procedure, all economic operators are allowed to take part in the first step but only applicants satisfying the eligibility and qualification criteria are invited to submit a bid.
3. The Limited Bidding method is essentially the Restricted Bidding method with the exception that the shortlist is established by the Contracting Authority without open advertisement.
4. The rules for prequalification are exclusive for Restricted Bidding for Services, which can be local, international or regional (provided in Schedule 4).

3.4.1. Publicity

To ensure competition, the bidding procedure must be published according to the SADC Secretariat publication guidelines. The publication guidelines shall require the publication of a general procurement notice (GPN) and a specific procurement notice (SPN).

3.4.1.1. General procurement notice

1. For contracts with a value over 1,000,000 US\$ the Contracting Authority shall publish a general procurement notice at least 30 days prior to the publication of a specific procurement notice. In contracts of lower value the publication of general procurement notice shall not be compulsory.
2. The general procurement notice shall contain a brief description of the services to be provided, location, financing source, estimated value and duration. This information shall not be binding for the Contracting Authority and the service providers shall not be requested to submit bids. Its purpose is to inform about a future opportunity.
3. The general procurement notice shall be published according to SADC publication guidelines.

3.4.1.2. Specific procurement notice

1. The Contracting Authority shall publish the specific procurement notice according to SADC publication guidelines 30 days after the publication of the general procurement notice, if applicable.
2. The specific procurement notice shall provide all the information referring to the capacity to implement the project, including technical capacity, financial, economic and professional capacity. It shall also contain the rules of origin and nationality of the tender as well as the source of the financing.
3. In case of Restricted Bidding Procedure, specific procurement notice shall also contain a deadline for presentation of pre-qualification bids. The time allowed for bidders to submit their application shall be sufficient to allow proper competition. The minimum period for submitting applications is thirty (30) days from the date of publication of the specific procurement notice. The number of days shall be determined by the contract size and complexity.
4. For Restricted Bidding Procedure, the specific procurement notice shall contain all the selection criteria for the pre qualification. The selection criteria (technical, economic, financial and professional capacity) must be clear, objective and possible to prove by bidders. The selection criteria shall be adapted to the nature, complexity and cost of the assignment.



5. For both Restricted Bidding and Limited Bidding the minimum time allowed for candidates to submit their applications shall be thirty (30) days from the date of publication. However, the Procuring Entity may decide to grant a longer period.
6. The bidders may submit questions for clarification on the specific procurement notice. The bidders must submit their questions no later than 21 days before the deadline for submission of bids. The Contracting Authority must respond to all questions and to all bidders simultaneously according to publication guidelines no later than 11 days before the deadline for submission of bids.
7. The Contracting Authority may publish clarifications or corrigenda to the specific procurement notice. If the corrigenda are of substance the Contracting Authority may extend the original period for submission.

3.4.2. Short list (for Restricted Bidding only): preselection criteria

1. After bid submission deadline the Evaluation Committee appointed by the Contracting Authority shall meet to prepare the shortlist report.
2. The Evaluation Committee shall prepare a longlist with all the bids presented. Afterwards it shall eliminate the candidates who according to published criteria are not eligible. Finally, the Evaluation Committee must objectively apply the preselection criteria to the remaining candidates in order to obtain the shortlist that shall contain the candidates which shall be invited to submit bids at the next stage.
3. A successful prequalification entails that a minimum of three (3) and a maximum of six (6) bidders are shortlisted. Should the minimum number of qualified economic operators not be attained the prequalification process shall be declared unsuccessful and cancelled. In such cases the Contracting Authority may either re-launch the prequalification or launch a Negotiated Procedure without publication with the economic operator(s) which passed the pre-qualification stage.
4. The shortlisting process must be fully documented in a prequalification report which has to be signed by all the members of the Evaluation Committee. The shortlist shall be published according to publication guidelines.
5. Bidders who have not prequalified will be informed in writing of the reasons. The candidates who have prequalified shall receive a letter of invitation to bid together with the bidding documents.

3.4.3. The Bidding documents

1. The Contracting Authority shall issue the bidding documents and ensure that the procurement procedure is carried out correctly.
2. At the prequalification stage the prequalification/bidding documents shall be published online and any economic operators shall have access to them while at the bidding stage only the shortlisted candidates shall be given access to the documents.
3. The bidding documents must be comprehensive, containing all the information and templates needed to submit a bid.
4. The bidding documents must contain at least:



- (a) Letter of invitation;
 - (b) Information to bidders (ITB), including the Data Sheet;
 - (c) Templates/forms (including administrative compliance grid) for technical and financial proposals;
 - (d) Draft contract (including general and special conditions);
 - (e) Terms of Reference (containing the technical criteria);
 - (f) Deadline for submission of tenders indicating exact time and address;
 - (g) Award criteria;
 - (h) Bid security requirements (tender guarantee, performance guarantee, advance guarantee);
 - (i) Maximum price; and
 - (j) Validity period of the bids.
5. The aim of the award criteria in service contracts is to identify the best value for money. These criteria cover both the technical quality and the price.
 6. The technical criteria allow the assessment of the technical quality of the bids. The main types of technical criteria are the methodology and the experts' profiles. The methodology and experts proposed must be in line with the content of the terms of reference.
 7. The bidding documents shall contain, in line with the terms of reference, an evaluation grid with the criteria to be evaluated.
 8. Each criterion shall be given a maximum number of points out of 100 distributed among the different sub criteria. Their respective weightings shall depend on the nature of the services and shall be determined according to the terms of reference. The criterion must be as quantifiable as possible. The main criteria are usually:
 - a) Methodology:
 - Rationale/understanding of TOR
 - Strategy
 - Work plan
 - Training/transfer of know how.
 - b) Key Experts
 - Qualification and Skills
 - General professional experience
 - Specific professional experience
 9. The evaluation grid shall specify in detail the criteria, sub criteria and their weightings.

3.4.4. Questions/Clarifications during proceedings

1. The Contracting Authority may on its own initiative provide the bidders with additional information (clarification) in case necessary always respecting fair competition.
2. All shortlisted bidders must be given the same information at the same time. In case the clarification is needed before shortlisting, the additional information/corrigendum shall be published and made accessible to all bidders according to publication guidelines.
3. The bidders may submit questions in writing no later than 21 days before the deadline for submission of tenders. The Contracting Authority must reply no later than 11 days before the deadline for submission. The answers must be sent to all the bidders simultaneously during the bidding stage or published on SADC website during the prequalification stage.

4. The Contracting Authority may hold an pre bid information meeting. The meeting must be announced and must take place no later than 21 days before the deadline for submission. The attendance to the meeting shall not be compulsory.
5. If the Contracting Authority convenes a pre-bid meeting or site visit for economic operators, it shall prepare minutes containing the questions submitted at the meeting or site visit, and its responses to those requests, without identifying the sources of the requests. The minutes shall be provided at latest 11 days before the deadline for submission of bids to all economic operators to which the Contracting Authority provided the bidding documents, so as to enable them to take the minutes into account in preparing their bids.

3.4.5. Submission of bids

1. The bids must be submitted at the place designated in the bidding documents within deadline in accordance with the double envelope system, i.e. in an outer parcel/envelope containing two separate sealed envelopes, one marked “Technical Bid” and the other “Financial Bid”.
2. All parts of the bid other than the financial quotation must be submitted in the envelope containing the technical bid. Unsealed envelopes or references to price in the technical bid shall lead to the rejection of the bid.
3. The rationale behind submission of technical and financial bids in separate envelopes is to allow the Contracting Authority to evaluate the technical and financial bids successively and separately ensuring that the technical quality is considered independently of the price.
4. On receiving the bids, the Contracting Authority shall register them, indicating day and time of arrival and keeping receipts while providing the bidder with a copy of the receipt. The envelopes shall remain sealed and kept in a safe place till the opening session. The outer envelopes containing the bids must be numbered in order of receipt (whether or not received within deadline).
5. A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice by certified mail, duly signed by an authorized representative, and shall include a copy of the authorization.
6. The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be submitted by courier/mail and, in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” in addition, they must be received prior to the deadline for submission.
7. Bids requested to be withdrawn shall be returned unopened to the Bidders.
8. No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

3.4.6. The evaluation process

The evaluation process is divided in the following steps namely Preparatory phase; Bid opening; administrative compliance; technical evaluation; financial evaluation and application of award criteria.



3.4.6.1 Preparatory phase.

1. The first meeting of the Evaluation Committee must precede the opening session. The Secretary of the Evaluation Committee shall circulate the bidding documents to the evaluators and make a presentation of the tender and explain the procedures to be followed by the Evaluation Committee.
2. The members of the Evaluation Committee shall sign the impartiality and confidentiality statements.

3.4.6.2 Bid opening.

1. The composition of the Evaluation Committee will be approved by the Executives or those delegated the authority prior to the opening session.
2. All members of the Evaluation Committee shall be present at the tender opening session. During the session the following shall be verified:
 - a) Registration number on the envelope;
 - b) Name of the tenderer;
 - c) Date/time of arrival;
 - d) All bids received are available for the opening session and numbered in order of reception;
 - e) Outer envelope is sealed;
 - f) Whether or not the technical and financial bid are sealed and contained in separate envelopes;
 - g) Whether the submission form is in the technical offer; and
 - h) Whether the statements of availability and exclusivity for the key experts are included.
3. Under no circumstance the envelope containing the financial bid shall be opened. It must remain sealed. The secretary of the Evaluation Committee must keep them in a safe place.
4. Envelopes marked "WITHDRAWAL" shall be opened first and read out and the envelope with the corresponding bid shall not be opened, it will be returned to the Bidder. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid shall be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, it will be returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Bid.
5. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening.
6. Only envelopes that are opened and read out at Bid opening shall be considered further.
3. The secretary of the Evaluation Committee shall draft the opening report, which shall be signed by all the members of the Evaluation Committee and it must contain a list of the bids that have been received.
7. Bids received after the deadline for submission shall be disqualified and returned to the bidder unopened.



3.4.6.3 Administrative compliance

1. Once the opening session is done, the Evaluation Committee shall proceed (in the same or different session) with the assessment of the administrative compliance.
2. Published Administrative Compliance Grid will be used without modifications, which uses yes/no or possibly not applicable method of assessment. When a bid receives one or more “no’s“ it will be rejected, but the session must be completed and all questions in the Grid answered.
3. During administrative compliance the Evaluation Committee shall not go into the content of the technical offer. The following elements shall be taken into account, unless they differ from published Administrative Compliance Grid:
 - (a) Bid submission form is duly completed;
 - (b) Signed by all the members of the consortium and the leader;
 - (c) Language requirements;
 - (d) Organization and methodology are present;
 - (e) Key experts’ list and cv are in the bid;
 - (f) Each key expert is present in only one bid;
 - (g) Statements of exclusivity and availability are present and signed; and
 - (h) Rule of nationality is complied, if applicable.
4. The Chairperson shall verify all these elements with assistance of the Secretary. Non-compliant bids shall be excluded from further evaluation.
5. The Evaluation Committee may request for clarifications to one or more bidders giving reasonable time to answer depending on the clarification requested. The clarifications may refer to documents provided or complementing documents/information provided but not to missing administrative documents.
6. The financial bids shall remain sealed.

3.4.6.4 Technical evaluation

1. Once the administrative compliance is finished, the Evaluation Committee shall examine the technical offers. At this stage, each voting member awards each bid a score out of a maximum 100 points in accordance with the technical evaluation grid published as part of the bidding documents. Under no circumstance the evaluation grid can be changed.
2. Only offers obtaining a minimum score of 70 are declared technically acceptable/compliant. The Procuring Entity may decide to raise the minimum score over 70 in the bidding documents.
3. The organization and methodology presented must be evaluated according to the terms of reference and the criterion and sub criterion contained in the evaluation grid.
4. The experts must be scored against the criteria contained in the terms of reference and the evaluation grid.
5. The bidders must provide documentary evidence for the key experts proposed. These include copies of certificates and references of their professional experience for all assignments/working experience listed in the CV.
6. The Evaluation Committee shall only take into consideration experience backed by certificates and experience supported by documentary evidence. In case documentary evidence is not

matching with what is stated in the CV, relevant qualification and/or experience will not be considered by the Evaluation Committee.

7. Each voting member shall complete an evaluation grid to record his assessment of each offer establishing a general appreciation of strengths and weaknesses of the individual technical offers.
8. The points awarded by each voting member shall be compared at the Evaluation Committee session where the voting members shall present and discuss their views. After the discussion each member shall decide its final score. In case of major discrepancies dissenting members shall justify their dissent. Once discussed, each voting member shall fill its evaluation grid on each bid and hand it over signed to the secretary.
9. The secretary shall compile all the documents as well as comments to include them as part of the evaluation report.
10. The secretary shall calculate the aggregate final score which is the arithmetical average of the individual final scores.
11. The Evaluation Committee may request clarifications to the bidders. The bidders shall be allowed reasonable time to respond during working days/hours.
12. The Evaluation Committee may decide to interview key experts proposed in the technically compliant bids. The interviews must have been foreseen in the bidding documents and should be conducted fairly and giving sufficient notice to the bidders.
13. Bids not reaching 70 points shall be considered not compliant. If no bid reaches 70 points the procedure shall be cancelled. Out of the 70 points threshold, the best technical offer is awarded 100 points. The others receive points calculated using the following formula: Technical score = (final score of the technical offer in question/final score of the best technical offer) x100.

3.4.6.5 Financial evaluation

1. Only upon completion of the technical evaluation, the financial offers of the technically compliant bids shall be opened in a public session.
2. The chairperson and the secretary shall sign all the originals of the financial bids.
3. The envelopes containing financial bids of bidders that did not qualify during the administrative checks or the technical evaluation shall not be opened and shall be returned to the bidders by the end of the cool-off period.
4. The technical scores cannot be changed once the financial bids are opened.
5. The Evaluation Committee shall ensure that the financial bid satisfies all formal requirements. It shall also check that the financial bids do not contain arithmetical errors. Any obvious arithmetical error shall be corrected without penalty to the bidder.
6. The Evaluation Committee may request clarifications from the bidders giving them reasonable deadline.
7. The total contract value comprises the fees, incidental expenditure, lump sums and the expenditure verification as specified in the bidding documents. This value is compared with the maximum budget available.



8. Bidders exceeding the maximum budget available shall be eliminated.
9. Afterwards, the Evaluation Committee shall proceed with the financial comparisons of the fees and lump sums between the different financial offers. Both the provisions for incidental expenditure verification and lump sums shall be excluded from the comparison of the financial bids as specified in the bidding documents.
10. The offer with the lowest total fees plus lump sums shall receive 100 points. The others are awarded points by means of the following formula: $\text{Financial score} = (\text{lowest total fees} + \text{lump sums} / \text{total fees} + \text{lump sums of the tender being considered}) \times 100$.

3.4.6.6 Application of award criteria (best value for money)

1. Service contracts are tendered on best value for money which is established by weighing technical quality against price.
2. The ratio has to be established in the bidding documents and cannot be changed thereafter. The value of the technical offer cannot be below 70 points nor can it exceed 90 points, thus the maximum weighing for the financial bid would be 30 points while minimum would be 10 points.
3. In case of example of 80/20 weighting, the best value for money shall be calculated by multiplying the scores awarded to the technical bids by 0.8 and the scores awarded to the financial bids by 0.2. The resulting, weighted technical and financial scores are then added together to find the tender with the highest score, i.e. the best value for money.
4. The Evaluation Committee shall recommend awarding the contract to the tender achieving the highest overall score.
5. The secretary of the Evaluation Committee shall prepare an evaluation report containing final recommendation on the evaluation process and submit to the Evaluation Committee for consideration and signature by all the members.

3.4.7. The contract award

1. Once the evaluation report is approved by the relevant authority, the Contracting Authority shall issue a notice of intention to award the contract to all the bidders which participated in the process by giving them fifteen (15) days within which to submit a complaint.
2. After the fifteen (15) days have elapsed, the Contracting Authority shall send the award notice to the successful bidder requesting from the potential contractor a confirmation of acceptance which will have the effect of extending the validity of the bid for a period of sixty (60) days. If the potential contractor does not accept the award the Contracting Authority may choose to forfeit the Bid Security. In this case the Contracting Authority shall offer the contract to the second lowest technically compliant bidder.
3. The Contracting Authority may choose to inform also the second best and keep the validity of its bid for another 60 days in case the best bidder fails or declines signing the contract.
4. For fee-based contracts, the contractor shall confirm the availability of the experts presented for evaluation within five days of the receipt of the notification letter.
5. Should any of the key experts be unavailable the successful bidder shall propose a replacement expert. The Contracting Authority shall verify that the replacement expert's total score in relation to the evaluation criteria is at least the same as the scores given to the expert he is proposed to



replace. The replacement expert must meet the minimum requirements for each evaluation criteria.

6. The maximum time limit for proposing replacement shall be 15 days from the date of receipt of the notification letter. The bidder may propose more than one replacement expert to the Contracting Authority for the later to select the most adequate.
7. If no replacement expert is proposed or the experts proposed do not meet the requirements, the Contracting Authority shall award the contract to the second best bidder. When there are no more compliant bidders left the Contracting Authority may cancel the tender.

3.4.8. The contract signature

1. Once the notification of contract award is accepted by the successful bidder the Contracting Authority shall prepare and sign/initial the contract in the number of originals required in the bidding documents and send them to the contractor for counter signature. The contractor shall sign the originals, keep one and send back the others to the Contracting Authority.
2. The Contracting Authority shall verify the power of attorney of the person signing the contract on behalf of the contractor. It shall also verify that the awarded bidder is not within the exclusion criteria listed in para 2.5.2. For contracts over US\$ 350,000 the Contracting Authority must request proof.
3. Unless otherwise specified in the contract, the effective date of the contract shall be that of the later signature. The contract shall not cover earlier services or enter into force before signature by all parties.
4. The Contracting Authority shall file, keep and make accessible to public all the documentation referring to procurement and contract implementation for a period of seven years from the date of the final payment to the contractor. In case of dispute, the period shall be extended to five years after the dispute is finalized.

3.4.9. The publication of awards

1. Once the contract has been signed, the Contracting Authority shall prepare Contract Award Notice using the standard template and publish it according to SADC publication guidelines.
2. The award notice shall be published within fifteen (15) days from the signing of the contract by the parties.

3.5. Limited bidding

1. The rules applicable to the Restricted Bidding procedure shall also apply to Limited Bidding except those referring to pre-selection, since in this procedure the Contracting Authority shall do the pre-selection of at least three (3) Economic Operators without an open pre-selection procedure and the Contracting Authority shall receive at least two (2) bids/quotations/proposals. The Contracting Authority must justify the choice of the economic operators invited to participate.
2. The Requisitioning Function must justify the choice of the economic operators invited to participate and it shall write a report justifying the pre-selection.
3. Under this method, the Contracting Authority restricts the issuing of bidding documents to a limited number of specified economic operators when:



- a. the goods, works, or services required are of a specialised nature or can only be obtained from a limited number of specialised economic operators or reputable sources, all of whom are known to the Procuring Entity; or
 - b. the time and cost of considering a large number of bids is disproportionate to the value of the procurement; or
 - c. there is an urgent need for the goods, works or services so that there would be insufficient time for the Procuring Entity to engage in open bidding, provided that the circumstances giving rise to the urgency could not have been foreseen by the Procuring Entity and have not been caused by dilatory conduct on its part.
4. This method shall only be deployed with prior approval of the Accounting Officer or a delegated authority unless it falls within the thresholds established in Schedule 3 below and if it has been fully demonstrated that any of the conditions as laid out in paragraph 3 (a) to (c) of this article have been met.
 5. The lowest evaluated substantially responsive bid i.e. the bid complying with all criteria stated in the bidding document shall be subjected to post qualification prior to contract award

3.6. Negotiated Procedure

1. In the case of particularly complex contracts, where the Contracting Authority considers that arrangements governing the restricted procedure will result in the best value for money, it may use the Negotiated Procedure as outlined under Article 5(a) and (b) of SADC Procurement and Grants Policy.
2. The Negotiated Procedure with Publication shall be used only in the case of contracts for: (a) large complex facilities awarded as single responsibility (including as turnkey) contracts for the design, supply and installation, or single responsibility contracts for the supply and installation of a facility or plant; (b) works of a complex and special nature; (c) complex design and build contracts or (d) complex equipment and information and technologies that are subject to rapid technology advances where it may be undesirable or impractical to prepare complete technical specifications in advance.
3. A contract is considered to be 'particularly complex' if the Contracting Authority is objectively unable either to specify the technical means of satisfying its needs or objectives or to specify the legal or financial makeup of the project.
4. Unless the tender falls within the thresholds contemplated for in Schedule 3 below, the Negotiated Procedure without Publication shall be used only in the following situations:
 - (a) following an unsuccessful restricted procedure, if the procuring entity cannot launch a new procurement process due to emergency reasons or adverse market conditions which prevents completion;
 - (b) where the goods involved are manufactured purely for the purpose of research, experimentation, study or development; however, contracts awarded pursuant to this point shall not include quantity production to establish commercial viability or to recover research and development costs;
 - (c) for the purchase of services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations;
 - (d) for services which due to safety and security reason can only be procured from a limited reputable sources (e.g.: financial services, legal services, medical services, etc) or where, for technical reasons, or reasons involving the protection of exclusive rights, proprietary



- services, the contract can only be awarded to a limited number or a single economic operator;
- (e) for reasons of urgency, need or emergency or the nature of the tender, the Executive Secretary or the person delegated decides to follow this procedure;
 - (f) where the time and cost of considering a large number of tenders is disproportionate to the value of the procurement; and
 - (g) where SADC Procurement and Grants Guidelines allow the Contracting Authority to pursue this procedure under certain thresholds, in which case the Negotiated Procedure is not an exceptional procedure and can be applied by the Contracting Authority without any special authorisation.
5. Unless the tender falls within the thresholds contemplated for it in SADC Procurement and Grants Guidelines, the method shall only be deployed with prior approval of the Executive Secretary and if it has been fully demonstrated that the conditions for application of these methods have been met.
 6. The Negotiated Procedure method is a procurement method that allows the Procuring Entity to negotiate with a minimum of two bidders, the technical, financial and commercial conditions of a contract.
 7. The Negotiated Procedure has two methods of application as follow:
 - a. **Negotiated Procedure with Publication.** This method entails that the Contracting Authority launches an open invitation to all interested economic operators to participate in a two stages bidding process. During the first stage, the interested economic operators are invited to submit technical proposals on the basis of a conceptual/preliminary design or performance specifications. Upon review of the first stage proposals, the Contracting Authority will invite bidders to negotiate improved technical proposal, discuss commercial conditions of the contract and provide any other clarification as necessary. Subject to specific request for improvement of their proposals as well as general amendments of the bidding documents, the bidders will be further invited to the second stage of the procedure, to submit final technical and financial proposals. Following the second stage evaluation, the Procurement Entity shall invite the successful bidder to negotiate the contract.
 - b. **Negotiated Procedure without Publication.** This method entails that the Procuring Entity invite a minimum of one potential economic operator to submit and negotiate technical and financial proposals. The application of this method may take place in successive stages of negotiation until the Contracting Authority is satisfied with the technical and commercial offer of the invited economic operators. The contract can only be awarded to the bidder that has submitted a technical compliant offer at the lowest negotiated price.
 8. The Contracting Authority shall nominate an evaluation committee and shall establish comprehensive bidding documents as in the other bidding procedures. The bidders shall submit their offers according to the bidding documents in a given deadline.
 9. All bidders shall be treated equally.
 10. The opening session shall be in public but the negotiations shall be held separately with each bidder.
 11. The Evaluation Committee shall produce a detailed evaluation report containing the description of the negotiations with each bidder.



12. The negotiations may include discussions on the price, extension and the scope of the contract. In Negotiated Procedure, the Contracting Authority may decide to proceed to negotiations with bidders which quoted a price higher than the one specified as maximum thresholds in the Bidding Documents in case none of the offers falls within the threshold. This must be specifically mentioned in the Bidding Documents.
13. In case at least one of the offers falls within the maximum threshold, the Contracting Authority shall only be allowed to invite Bidders above the thresholds meeting the following requirements:
 - a) The Bidding documents specifically contemplate the possibility to negotiate with bidders presenting bids above the threshold.
 - b) The Bidders which presented an offer below thresholds is not technically compliant.
 - c) The Contracting Authority has justified doubts that the contract can be implemented within the thresholds initially estimated.

3.7. Framework contracts

3.7.1. Definition and types

1. Procurement under the Framework Contracts/Agreement is a simplified two-stage competitive procurement procedure to be used for the acquisition of services, goods or works, required by the Contracting Authority on a recurrent basis.
2. A Framework Contract is an agreement between the Contracting Authority and one or several contractors with the purpose to establish the terms governing specific contracts which may be awarded during a given period.
 - 3.
4. The terms and conditions of the framework contract are mainly related to the duration, subject, price, implementation rules, quantities, delivery time, scope of services, goods or works and related payment rules.
5. There are two types of framework contracts, multiple framework contract and single framework contract. Framework contracts with several economic operators are termed as “multiple framework contracts”, they take the form of separate contracts but they are all concluded on identical terms. Framework contracts with only one economic operator are termed as “single framework contract”.
 - 6.
7. The award of a framework contract always requires a public procurement procedure. However, once a framework contract has been concluded, the award of specific contracts follows a request for services, goods or works sent by the contracting authority to a number of framework contractors, a minimum of three, and the evaluation of their offers. A specific contract is then awarded to highest-ranked bidder. For the award of specific contracts under single framework contract the procedure is set out in section 3.7.5. below.
 - 8.

Specific contracts based on framework contracts are thus awarded in accordance with the terms of the framework contract. Hence, when awarding specific contracts under a framework contract, the procedure set out in the framework contract must be followed, provided that the principles of transparency, proportionality, equal treatment and non-discrimination are respected.

9. The duration of such contracts/agreements shall be two (2) calendar years, and may be extended up to four (4) calendar years, subject to well-documented assessment of performance of the contractors one year after the signature of the agreement(s).



3.7.2. Multiple Framework Contract

1. Multiple framework contract takes the form of separate agreements with a number of economic operators but concluded in identical terms, specifically: the same general conditions, terms of delivery, type of services, goods or works to be delivered possibly the maximum cumulative contract value. An item that may be different is the prices if those are quoted during the bidding stage.
2. Multiple framework contracts are a modality that gives the Procuring Entity transparent, competitive and efficient way of mobilisation of resources and achieving best value for money.
3. For a multiple framework contract to be valid, there must be a minimum of three economic operators within the agreement.
4. Establishment of multiple framework contract shall be advertised and open to all economic operators that are eligible and qualify.
5. In a multiple framework contract, the contract will be awarded to a minimum of three and a maximum of 5 framework contractors, who will be invited to participate every time the Contracting Authority has a need covered by the framework contract. The framework contractors invited to submit offers will do so through a simple procedure and the Contracting Authority will award the contract to the best bidder, as per the framework contract. The Contracting Authority may, depending on the framework agreed, either invite all the framework contractors to submit an offer or randomly pick a minimum of three.
6. Only in exceptional justified cases the Procuring Entity may award a framework agreement to less than three entities. Those cases may be insufficient number of responsive bids coupled with time constraints that would make relaunching not practical.
7. In case of extension of the multiple framework contract, the aggregated total sum of the awarded multiple framework contracts shall not exceed double the original ceiling amount of the agreement.

3.7.3. Single Framework Contract

1. The procedure for awarding single framework contract is the same as for multiple framework contract but in this case one contract is awarded to the best bidder according to award criteria previously established.
2. This type of contract is used when the specifications are well defined and shall not change for the duration of the contract.
3. Single framework contract method can be used for procurement of simple off the shelf goods, services or works where specifications are simple and procurement is repetitive, such as tickets, stationary, financial services, etc.

3.7.4. Multiple framework contract: awarding procedure for specific requests

1. Once the multiple framework agreement is signed with a number of economic operators, the Procuring Entity may make use of it during its validity period.



2. The multiple framework is generally used for services (provision of experts), but may as well be used for goods or works.
3. The Contracting Authority shall follow the procedure as follows:

a) Consultation

- (1) The Contracting Authority shall send a specific request for services to at least three of the framework contractors. The requisition shall include the specific terms of reference for the assignment in order to give the framework contractors all the information they need to submit their bids. The terms of reference must be clear and within scope the framework contract. Request will also contain draft contract and all of its annexes. The deadline for submitting bids will not be less than 15 days from the date the request was sent to the contractors.
- (2) The framework contractors may ask for clarifications up to 10 days before the deadline for submission and the answers should be sent simultaneously to all framework contractors invited no later than 5 days before the deadline for submission. All framework contractors must be treated equally.
- (3) The bidding documents must contain an evaluation grid with clear technical evaluation criteria with their respective weights specified.
- (4) For requests for consultants, the bidder shall need to prepare simple methodology.

b) Evaluation of offers

- (1) Bids are valid for 30 days from the deadline for submission.
- (2) Composition and functions of the Evaluation Committee will be as per 2.11 of these Guidelines.
- (3) Only bids fulfilling the following criteria shall be evaluated:
 - a) Received within the deadline for submission
 - b) Financial offer is not exceeding maximum available budget as indicated in the request for global price contracts (for fee-based prices are part the Framework Agreements)
 - c) Submission contains all requested documents, for which still clarification may be requested if needed
- (4) The Contracting Authority shall choose the bid with the best value for money by application of ratio between technical quality and price as per the Framework Agreement.
- (5) Any bid obtaining less than 70 points in the technical evaluation shall be rejected. The evaluators shall follow the formula contained in the Restricted Bidding procedure mentioned under 3.4.6.4, 3.4.6.5 and 3.4.6.6 of these Guidelines.
- (6) In fee-based contracts, for the financial evaluation the provision for incidental expenditure and the provision for verification expenditure shall not be taken into consideration to compare the financial bids.
- (7) In global price contracts the total price shall be taken into account in the comparison of the financial offers except in cases where the bidding documents establish a fixed lump sum. If it contains provision for incidental expenditure or expenditure verification, these will not be taken into account for comparison of financial bids. The evaluators shall follow the formula contained in the Restricted Bidding procedure mentioned under 3.4.6.4, 3.4.6.5 and 3.4.6.6 of these Guidelines.
- (8) Within 14 days of the deadline for receipt of offers, all bidders must be notified of the result of the evaluation and the award decision.



c) Contract signature/Purchase Order

- (1) The Contracting Authority shall sign a contract (or Purchase Order) with selected bidder or issue a Purchase Order in its favour. The contract or Purchase Order shall contain the general templates plus the terms of reference and the financial offer.
- (2) The Framework Contractor upon receipt of the contract or the Purchase Order shall sign the contract and return it to the Procurement Function within five (5) days from the receipt of the contract/order.
- (3) The acceptance of the contract or Purchase Order shall bind the Framework Contractor to deliver the services as per the terms and conditions stipulated in the contract or Purchase Order.

d) Performance assessment

- (1) The Task Manager shall make a performance assessment of the contract after the completion of the services.
- (2) To prevent distortion of the competition, in case a multiple framework contractor fails to respond to five (5) consecutive specific requests for services raised under a lot, the Agreement with the respective multiple framework contractor under that respective lot may be terminated subject to the decision of the Executive Secretary or a delegated authority.

3.7.5. Single framework contract: awarding procedure

1. Once the single framework contract is signed with an economic operator, the Procuring Entity may make use of it during its validity period.
2. The single framework contract is generally used for goods or works.
3. The Contracting Authority shall follow the procedure as follows:

e) Request

- (1) The Contracting Authority shall send a specific request to the framework contractor. The requisition shall include the specifications in order to give the framework contractor all the information needed to submit the bid. The specifications must be clear and within the scope of the framework contract;
- (2) Requests may specify if a single option is sufficient or multiple options are required;
- (3) The deadline for submitting offers should not be less than two (2) days from the date the request was sent to the contractor.

f) Review of offer

- (1) Offer shall allow sufficient time to the Contracting Authority to deliberate;
- (2) Offer will be reviewed and accepted/rejected in writing by the Requisitioning Function;
- (3) Within seven (7) days of the deadline for receipt of offer, the contractor must be notified of the award decision.



g) Purchase Order

- (1) The Contracting Authority shall issue a Purchase Order upon award decision.
- (2) The acceptance of the Purchase Order shall bind the Framework Contractor to deliver the goods or works as per the terms and conditions stipulated in the framework contract and Purchase Order.

h) Performance assessment

- (1) The Task Manager shall make a performance assessment of the contract after its completion.
- (2) In case a framework contractor fails to respond to five (5) consecutive specific requests, the framework contractor may be terminated.

4. Procurement of Goods

4.1. Type of goods contracts (conventional/framework)

1. A Goods contract is an agreement whereby a contractor delivers/provides goods/supplies in exchange for remuneration. Goods contracts may cover the purchase, leasing, rental or hire purchase (with or without option to buy) of supplies.
2. The Contracting Authority may establish framework contracts for goods. A framework contract is an agreement between the Procuring Entity and one or more contractors, which sets out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the agreement. The aim of the framework contract is to improve efficiency and lower costs due to economy of scale.
3. The framework contract does not legally commit the Contracting Authority to purchase any of the products offered by the contractor, but secures their access to a very restrictive competition.
4. The framework shall not indicate the precise quantities to be ordered by the Contracting Authority during the contract term. However, it shall indicate the estimated minimum and maximum volume of purchases. Under no circumstance the maximum volume of purchases shall exceed the budgetary estimate.
5. Framework contracts for goods require intensive monitoring and administrative support from the Contracting Authority.

4.2. Preparation of cost estimates to determine the contract value

1. After the Technical Specifications have been drafted, the Requisition Function shall conduct a market research to estimate the value of the goods to be procured.
2. Particular attention shall be given to grouping the procurement requirements in such a way as to ensure wide competition, economy and efficiency in the procurement process.
3. All similar or related items shall be grouped in a single package. Once the packages have been established, the Requisition Function with the support of the Procurement Function, shall assess if to procure them through one single procurement process with several lots, or if it is more convenient for some or all the packages to be independently procured. Preference should always be given to Lots for reasons of efficiency and effectiveness.



4. The decision on how the packages shall be combined and procured, shall be based on the objective analysis of the market conditions and the time when goods are needed by the Procuring Entity. Under no circumstances will the decision lead to artificial splitting into different tenders for the purpose of circumventing the procurement thresholds.
5. The decision of procuring the packages should take into consideration the following aspects:
 - a) Are the packages of a similar nature?
 - b) In the national and international commercial practice are the goods described in each package normally all traded by the same suppliers or some are traded only by specialized suppliers?
 - c) Are the goods described in each package needed at more or less the same time, or will there be long gaps between the desirable delivery times?
 - d) Is the local or the international market targeted?
 - e) Is there enough competition for the goods; are they widely available?
 - f) Is the size of the contract generating more competition and economy of scale to potential suppliers?
 - g) Is the time a main factor for the delivery of the goods described in each package?
6. The estimated value of the contract shall be determined based on the information obtained through the market research and the decision on how to package the goods.
7. If the estimated value of the contract exceeds the available budget, the Requisition Function shall revise the technical specifications and/or quantities so as to adjust the requirements in order to bring the estimated contract value within available budget.
8. Under no circumstances shall such revision of the technical specifications affect the objectives the contract or render the use of the goods useless, unreliable or unsafe.
9. The maximum available budget shall not be specified in the Bidding Documents and shall be kept confidential by the Contracting Authority.

4.3. Procurement procedures for goods

4.3.1. Contracts with a value of US\$ 150,000 and above

1. All goods contracts with a budget estimate of US\$ 150,000 and above will be tendered through Open Bidding (Schedule 3) unless there is a specific derogation authorising another procedure.
2. The Open Bidding can be International, Regional or Local according to the thresholds established in Schedule 4.

4.3.2 Contracts with a value of US\$ 100,000 and below 150,000

1. All goods contracts with a budget estimate of US\$ 100,000 and below US\$ 150,000 will be tendered through Limited Bidding unless there is a specific derogation authorising another procedure.
2. These may be tendered through Open Bidding without the need for derogation.

4.3.3. Contracts with a value of US\$2,000 and below 100,000.

1. All goods contracts with a budget estimate of US\$ 2,000 and below 100,000 may be tendered through Negotiated Procedure unless there is a specific derogation authorising another procedure.

2. These may be tendered through Open Bidding or Limited Bidding without the need for derogation.
3. For contracts under US\$ 10,000 the Contracting Authority may use simplified Bidding Documents.

4.3.4. Exceptional procedures

1. In exceptional cases in line with the SADC Procurement and Grants Policy, with the prior approval of the SADC Secretariat's competent authority, the Contracting Authority may use Limited Bidding, Negotiated Procedure or Single Source for goods above mentioned standard ceilings according to the SADC and programme regulations/legal framework.
2. The Contracting Authority may use the exceptional procedures in following cases:
 - a. There was previously an unsuccessful procurement as per the thresholds and the Contracting Authority cannot launch a new procurement process using same procedure due to emergency reasons or adverse market conditions which prevents and competition as per the thresholds.
 - b. For the purchase of goods on particularly advantageous terms as specified in the SADC Procurement and Grants Policy.
 - c. For contracts which due to safety and security reasons can only be procured for a limited reputable source.
 - d. For reasons of extreme urgency brought about by events which the Contracting Authorities could not have foreseen and which can in no way be attributed to them.
 - e. Where the delivery of specific goods are entrusted to public sector bodies or to non-profit institutions and relate to activities of an institutional nature or designed to provide to people in the social field.
3. Under no circumstances shall the contracts be split artificially in order to avoid/manipulate thresholds.

4.4. Open Bidding for goods

1. Open Bidding is the preferred bidding method for goods contracts with an estimated value stipulated under article 4.3.1 above. The Open Bidding for goods may be:
 - (a) International: when it is published internationally according to the publication guidelines.
 - (b) Regional: when it is published regionally according to the publication guidelines.
 - (c) Local: when it is published locally according to the publication guidelines.
2. The thresholds are established in para 4.3 and Schedules 3 and 4 of these Guidelines. This clause applies equally for the three types stated in paragraph 1.
3. The provisions of this clause shall also apply to Limited Bidding for goods. The only difference is that for Limited Bidding the Contracting Authority shall establish a list of suppliers invited to participate and the competition shall be limited to this list.

4.4.1. Publicity

1. To ensure competition, the tender must be published according to the SADC publication guidelines.
2. Open Bidding procedures require the publication of a general procurement notice (only for International Open Bidding) and a specific procurement notice.



4.4.1.1. General procurement notice

1. The Contracting Authority shall publish the general procurement notice at least 30 days prior to the publication of a specific procurement notice for International Open Bidding. For the Regional and Local Open Bidding this general procurement notice shall not be compulsory.
2. The general procurement notice shall contain a brief description of the goods to be delivered, location of delivery and estimated amount of the contract, source of funding, INCOTERM applicable and delivery deadline. This information contained in the general procurement notice shall not bind the Contracting Authority. Its purpose is to alert potential economic operators on upcoming opportunity.
3. The general procurement notice shall be published according to SADC publication guidelines.

4.4.1.2. Specific procurement notice

1. The Contracting Authority shall publish the specific procurement notice, together with the bidding documents, according to SADC publication guidelines not earlier than 30 days after the publication of the general procurement notice.
2. The specific procurement notice shall provide all the information specifying the bidders' required capacity to implement the project, including technical, financial, economic and professional capacity. It shall also contain the rules of origin and nationality applicable to the tender.
3. The time allowed for bidders to submit their application shall be sufficient to allow proper competition. The minimum period for submitting applications shall be thirty (30) days from the date of publication of the specific procurement notice. The actual period shall be determined by the contract size and complexity.
4. The specific procurement notice must provide potential suppliers with the information needed to determine their capacity to fulfil the contract. The selection criteria contained in the specific procurement notice (technical, economic, financial and professional capacity) must be clear, objective and possible to prove by bidders. The selection criteria shall be adapted to the nature, complexity and cost of the assignment.
5. The Contracting Authority may publish clarifications or corrigenda to the specific procurement notice. If the corrigenda are of substance the Contracting Authority may decide to extend the original deadline for submission.
6. The specific procurement notice shall be part of the Bidding Documents.

4.4.2. The Bidding documents

1. The Contracting Authority shall issue the bidding documents ensuring that procurement procedures are carried out correctly.
2. The bidding documents shall be published online to allow economic operators to have access to them. For Limited Bidding and Negotiated Procedure without publication the bidding documents shall only be provided to the invited economic operators.
3. The bidding documents must be comprehensive, containing all the information and templates needed to submit a bid.
4. The bidding documents shall contain at least:
 - Invitation for Bids
 - a) Part 1: Bidding Procedures
 - i. Information to Bidders (ITB) (Section I)



- ii. Bidding Data Sheet (BDS) (Section II)
- iii. Evaluation and Qualification Criteria (Section III)
- iv. Bidding Forms (Section IV):
 - v. Bid Submission Form
 - vi. Technical Offer Form
 - vii. Price Schedule forms
 - viii. Price and Completion Schedule – Ancillary Services
 - ix. Bid Security
 - x. Manufacturer’s Authorisation.

b) Part 2: Supply Requirements

Schedule of Requirements (Section V)

- i. List of goods and delivery schedule
- ii. List of related/ancillary services and completion schedule
- iii. Technical Specifications
- iv. Drawings
- v. Inspections and tests

c) Part 3: Contract

- i. Draft contract
- ii. Technical Specifications
- iii. Bid security requirements

5. (a) The technical specifications must give equal access to all bidders and shall not create unjustified obstacles to competition. The technical specifications must not quote specific brands but shall specify what is required of a product or material to achieve the purpose for which they are intended. The technical specifications should:
 - i) Constitute benchmarks against which offer can be verified;
 - ii) Specify that all goods must be new and unused;
 - iii) Make use of best practices;
 - iv) Use metric system;
 - v) Avoid restrictions but may be advantageous depending on complexity of goods;
 - vi) Make use of reference to standards;
 - vii) Avoid use of brand names and references to catalogues (use “or equivalent” if unavoidable);
 - viii) Be descriptive; and
 - ix) Specify minimum or maximum values, as appropriate.
6. In cases where the Contracting Authority estimates that an information visit or site visit to clarify technical requirements is needed, the bidding documents shall specify it, stating day, hour and location. If not part of the bidding documents, it may be modified through the addenda.
7. The technical specifications shall not refer or describe products of a given brand or origin unless the nature of the contract makes it impossible/unreasonable to proceed otherwise (e.g. upgrade of existing equipment or purchase of optional parts for existing equipment).
8. The bidding documents shall clearly specify whether economic operators must quote, non-revisable. Normally prices should be fixed and not subject to revisions, but in specific/exceptional cases the technical specifications may allow for a price revision. In those cases, the bidding documents must lay down the conditions and formulas for revision of prices during the contract implementation.

9. For Open Bidding, the Contracting Authority shall request from the bidders a Bid Security to assure that the submitted bids will not be withdrawn. The Bid Security shall be between 1% and 5%.
10. The Bid Security shall be released to successful and unsuccessful bidders once the contract has been signed.
11. The Bidding documents shall specify the securities which the contractor shall have to provide during implementation (Pre-finance Security and/or Performance Security).

4.4.3. Selection, Evaluation and award criteria

1. The selection criteria refer to the bidder's capacity to implement the contract. The selection criteria shall verify:
 - a) The bidders' financial situation (financial and economic capacity), backed by statement of financial position, turnover or other objective data.
 - b) The bidders' technical and professional capacity, establishing average staff levels, size of professional experience and the main supply of goods/equipment delivered in the field in question over the last years.
2. Only successful bidders must supply official supporting documents for the selection criteria before the award of the contract.
3. The selection criteria must be precise, non-discriminatory and should encourage fair competition.
4. Price shall be the award criteria for goods, i.e. all non-compliant bidders having been eliminated; the contract shall be awarded to the bidder submitting the least expensive compliant bid.
5. Where a goods contract includes ancillary/related services (i.e. aftersales or training), the technical evaluation may take into account the quality of such services on a yes/no basis. If taken into consideration, all non-compliant proposals may be eliminated. Depending on the content of the bidding documents, the contract may be awarded to the bidder offering the lowest price for both equipment and ancillary services together or the ancillary services may be not part of the evaluation and may be purchased separately.
6. The Contracting Authority's evaluation of a bid may take into account in addition to quoted Bid Price one or more of the following factors as evaluation criteria by applying clearly defined criteria to which yes/no methodology can be applied:
 - a) Delivery schedule (as per INCOTERM specified in the BDS).
 - b) Deviation in payment schedule (bidders shall state their bid price for the payment schedule outlined in the SCC and bids shall be evaluated on those basis).
 - c) Cost of major replacement components, mandatory spare parts and maintenance.
 - d) Availability of spare parts and after sales services for equipment offered in the Procuring Entity's country.
 - e) Projected operating and maintenance costs.
 - f) Performance and productivity of the equipment.
 - g) Specific additional criteria.
7. If the tender is divided into Lots, the Contracting Authority, if specified in the Bidding Documents, may award a contract that covers multiple Lots even if the price per Lot is not the

highest ranking, but the bidder is offering a discount for multiple lots that would once calculated overall result in best price when summed up.

4.4.4. Questions/clarifications during proceedings

1. The Contracting Authority may whenever necessary on its own initiative provide the bidders with additional information while always respecting fair competition. The clarifications or corrigenda shall be published according to SADC publication guidelines.
2. The bidders may submit questions in writing no later than 21 days before the deadline for submission of tenders. The Contracting Authority must reply no later than 11 days before the deadline for submission. The reply must be published and not sent to the entity making the enquiries, unless the procedure applied is Limited Bidding or Negotiated Procedure without publication.
3. The Contracting Authority will try hold an information pre-bid meeting, especially in case the content of the bidding document is particularly complex. The meeting must be announced and take place no later than 21 days before the deadline for submission.
4. The attendance by the bidders to the meeting shall not be compulsory unless specifically mentioned in the Bidding Documents.

4.4.5. Submission of bids

1. The bids must be submitted at the place designated in the bidding documents within the date and time established in the bidding documents. The deadline for submission must be long enough to guarantee the quality of the bids and allow competition, in any case not shorter than the minimum period allowed as per 4.4.1.2 above.
2. On receiving the bids, the Contracting Authority shall register them, indicating day and time of arrival and keeping receipts. The envelopes shall remain sealed and kept in a safe place till the opening session. The outer envelopes containing the bids must be numbered in order of receipt (whether or not received within deadline).
3. A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice by certified mail, duly signed by an authorized representative, and shall include a copy of the authorization. The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be submitted by courier/mail and, in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" in addition, they must be received prior to the deadline for submission.
4. Bids requested to be withdrawn shall be returned unopened to the Bidders.
5. No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

4.4.6. The evaluation process

The evaluation process is divided in the following steps:

a) Preparatory phase.

1. The first meeting of the Evaluation Committee must precede the opening session.



2. The Secretary of the Evaluation Committee shall circulate the bidding documents to the evaluators and shall make a presentation of the tender and explain the procedures to be followed by the Evaluation Committee.
3. All members must be present.
4. The members of the Evaluation Committee shall sign the impartiality and confidentiality statements.

b) Tender opening.

1. The Evaluation Committee shall meet for the tender opening session. During the session the following shall be verified for each submission:
 - (a) Registration number on the envelope
 - (b) Name of the tenderer
 - (c) Date/time of submission
 - (d) All bids received are available for the opening session and numbered in order of receipt.
 - (e) Outer envelope is sealed.
 - (f) Financial bid included. Note any discounts.
 - (g) Whether the submission form is part of the offer.
 - (h) Whether the Bid Security is included, if applicable.
2. The tender opening shall be a formal public process. The opening session shall take place in public at the place and time set in the bidding documents. Participation of the opening session can be restricted to representatives of the bidders.
3. The chairperson shall read out aloud the names of the bidders and the corresponding amount of the financial offers.
4. Envelopes marked "WITHDRAWAL" shall be opened first and read out and the envelope with the corresponding bid shall not be opened, but it will be returned to the Bidder. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid shall be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but it will be returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only envelopes that are opened and read out at Bid opening shall be considered further.
5. The secretary of the Evaluation Committee shall prepare an Bid Opening Report to be presented for consideration and signature to all the members of the Evaluation Committee; the report must contain the list of the bids which have complied with the requirements of the opening phase.
6. Bids received after the deadline for submission shall be disqualified and returned to the bidders unopened.

c) Administrative compliance

1. Once the opening session is concluded the Evaluation Committee shall proceed in a closed session (in the same or different session) with assessment of submissions to ascertain administrative compliance. Major formal mistakes shall lead to the rejection of the bid.



2. During administrative compliance the Evaluation Committee shall not go into the content of the technical offer. The following elements shall be taken into account:
 - (a) Bid submission form is duly completed.
 - (b) Signed by all the members of the consortium and the leader.
 - (c) Language requirements.
 - (d) Documentation is complete.
 - (e) Declaration with exclusion criteria signed by all members of the consortium.
 - (f) Rule of nationality is respected.
 - (g) Any other administrative requirement as per the bidding documents.
3. The Evaluation Committee shall verify all these elements with the assistance of the Secretary. Non-compliant bids shall be excluded from further evaluation.
4. The Evaluation Committee may request for clarifications from one or more bidders giving reasonable time to answer depending on the clarification requested. The clarifications may refer to the content of documents provided or complementing documents/information provided, seeking missing signatures, even seeking missing administrative documents if those will not result in advantage to one over the other bidder (e.g. financial statements, judicial certificates, proof of registration of economic operator, power of attorney).
5. The administrative compliance shall be documented in the evaluation report.

d) Technical evaluation

1. Once the administrative compliance is completed the Evaluation Committee shall examine the technical offers to verify which bidders satisfy the minimum technical requirements set in the technical specifications.
2. Once the technical compliance is evaluated, the evaluators shall evaluate if the goods proposed fulfil the requirements of the rule of origin. In case there is any doubt as to the origin of the goods, the Evaluation Committee may request for clarifications or make enquiries/requests to the competent authorities to verify the compliance.
3. The bidders shall be required to provide proof of origin in the form of a certificate of origin or other official documentation as evidence.
4. Bids proposing goods not compliant with the rule of origin shall be rejected.
5. The Evaluation Committee shall rule on the technical compliance of each bid, classifying them as technically compliant or technically not-compliant. This includes the evaluation of the compliance of the ancillary services (if any).
6. The Evaluation Committee may request clarifications from the bidders giving them reasonable deadline.

e) Financial evaluation

1. Once the technical evaluation is completed, the Evaluation Committee shall verify that the financial bids presented by technically compliant bidders do not contain arithmetical errors. The Evaluation Committee shall correct any arithmetical error.
2. If the tender procedure contains several lots, financial bids are compared per lot. The evaluators shall select the best financial bid per lot, taking into consideration any discounts.
3. Notwithstanding provisions of the previous paragraph, Evaluation Committee will consider offers for multiple lots and discounts as per article 4.4.3(7) of these Guidelines.



4. The Evaluation Committee may request clarifications from the bidders giving them reasonable deadline.

f) Application of award criteria (lowest price)

1. The successful bidder shall be the one submitting the least expensive bid classified as technically compliant.
2. The Evaluation Committee shall propose awarding the contract to the successful bidder.
3. If the bidding documents expressly allow variant solutions, such solutions shall be taken into consideration separately. The Contracting Authority may take the variant solutions into consideration when submitted by the bidder provided the requirements specified in the technical specifications are met, only in cases where the price of the variant proposed is lower than that of the successful bidder. When these requirements are met the Evaluation Committee may compare the variant and the original offer and recommend the best solution to the Contracting Authority.
4. In tenders for goods the bidding documents shall not mention the maximum budget. When the lowest financial proposal quoted is above the maximum budget, the Evaluation Committee may if it is possible and meets the needs of the beneficiary/project propose awarding the contract to the successful bidder reducing the number of items.

4.4.7. The contract award

1. Once the evaluation report is approved by the relevant authority, the Contracting Authority shall issue a notice of intention to award the contract to all the bidders which participated in the process by giving them fifteen (15) days within which to submit a complaint.
2. After the fifteen (15) days have elapsed, the Contracting Authority shall send the award notice to the successful bidder requesting from the potential contractor a confirmation of acceptance which shall have the effect of extending the validity of the bid for a period of sixty (60) days.
3. If the potential contractor does not accept the award, the Contracting Authority may choose to forfeit the Bid Security. In this case the Contracting Authority shall propose the award to the second lowest technically compliant bidder.

4.5. Negotiated Procedure

1. In the case of particularly complex contracts, where the Procuring Entity considers that neither direct use of the open procedure nor the arrangements governing the restricted procedure will result in the best value for money, it may use the Negotiated Procedure as outlined under Article 30, paragraph 5 (a) and (b) of SADC Procurement and Grants Policy.
2. A contract is considered to be 'particularly complex' if the Procuring Entity is objectively unable either to specify the technical means of satisfying its needs / objectives or to specify the legal or financial makeup of the project.
3. The Negotiated Procedure with Publication shall be used only in the case of contracts for: (a) large complex facilities awarded as single responsibility (including as turnkey) contracts for the design, supply and installation, or single responsibility contracts for the supply and installation of a facility or plant; (b) works of a complex and special nature; (c) complex design and build contracts or (d) complex equipment and information and technologies that are subject to rapid technology advances where it may be undesirable or impractical to prepare complete technical specifications in advance.



4. Unless the tender falls within the thresholds contemplated for it in SADC Procurement and Grants Guidelines, the Negotiated Procedure without Publication shall be used only in the following situations:
 - a. following an unsuccessful open or restricted procedure, if the procuring entity cannot launch a new procurement process due to emergency reasons or adverse market conditions which prevents an open completion;
 - b. where the goods involved are manufactured purely for the purpose of research, experimentation, study or development; however, contracts awarded pursuant to this point shall not include quantity production to establish commercial viability or to recover research and development costs;
 - c. for the purchase of goods or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations;
 - d. for goods and services which due to safety and security reason can only be procured for a limited reputable sources (e.g.: drugs and medicines, financial services, legal services, medical services, etc) or where, for technical reasons, or reasons involving the protection of exclusive rights, proprietary goods, works or services, the contract can only be awarded to a limited number or a single economic operator;
 - e. for reasons of urgency, need or emergency or the nature of the tender, the Executive Secretary or the person delegated decides to follow this procedure;
 - f. where the time and cost of considering a large number of tenders is disproportionate to the value of the procurement; and
 - g. where SADC Procurement and Grants Guidelines allow the procuring entity to pursue this procedure under certain thresholds, in which case the Negotiated Procedure is not an exceptional procedure and can be applied by the procuring entity without any special authorization.
5. Unless the tender falls within the thresholds contemplated for it in SADC Procurement and Grants Guidelines, the method shall only be deployed with prior approval by the Accounting Officer and if it has been fully demonstrated that the conditions for application of these methods have been met.
6. The Negotiated Procedure has two methods of application as follow:
 - c. **Negotiated Procedure with Publication.** This method entails that the Contracting Authority launches an open invitation to all interested economic operators to participate in a two stages bidding process. During the first stage, the interested economic operators are invited to submit technical proposals on the basis of a conceptual/preliminary design or performance specifications. Upon review of the first stage proposals, the Contracting Authority will invite bidders to negotiate improved technical proposal, discuss commercial conditions of the contract and provide any other clarification as necessary. Subject to specific request for improvement of their proposals as well as general amendments of the bidding documents, the bidders will be further invited to the second stage of the procedure, to submit final technical and financial proposals. Following the second stage evaluation, the Procurement Entity shall invite the successful bidder to negotiate the contract.
 - d. **Negotiated Procedure without Publication.** This method entails that the Procuring Entity invite a minimum of one potential economic operator to submit and negotiate technical and financial proposals. The application of this method may take place in successive stages of negotiation until the Contracting Authority is satisfied with the

technical and commercial offer of the invited economic operators. The contract can only be awarded to the bidder that has submitted a technical compliant offer at the lowest negotiated price.

7. Under this procedure the Contracting Authority will enter into negotiations with or without publication with the entity/entities pre-selected in order to enter into contract with the best bidder. The Contracting Authority shall enter into negotiations with one, two or more economic operators as per the provisions of Article 30, paragraphs 5 (a) and (b) of SADC Procurement and Grants Policy and will try to encourage competition. In case the Contracting Authority decides to open negotiations with a single entity (single source) the decision has to be justified and approved by the relevant SADC Secretariat authority, unless it falls under Negotiated Procedure without Publication.
8. The Contracting Authority shall nominate an evaluation committee and shall establish comprehensive bidding documents, same as for the other bidding procedures. The bidders shall submit their offers according to the bidding documents within a given deadline.
9. All bidders shall be treated equally.
10. The opening session shall be public or restricted, depending on the type of procedure used, with or without publication (i.e. restricted or open). The negotiations shall be held separately with each bidder. The Evaluation Committee shall produce a detailed evaluation report containing the description of the negotiations with each bidder.
11. The negotiations may include discussions on the price, extension and quantity of items to be delivered, as well as alternative/variant solutions.

4.6. Framework contracts

4.6.1. Definition and types

1. Procurement under the Framework Agreements is a simplified two-stage competitive procurement procedure to be used for the acquisition of goods required by the Contracting Authority on a recurrent basis.
2. Framework Agreements are simplified competitive procurement procedures to be used for the acquisition of simple or routine goods/equipment.
3. A framework contract is an agreement between the Contracting Authority and one/several contractors with the purpose to establish the terms governing specific contracts/transactions which may be awarded during a given period.
4. There are two types of framework contract:
Multiple framework contract: when the agreement is between the Contracting Authority and several contractors. It takes the form of separate contracts with a number of economic operators (minimum three (03) and maximum five (05)).
Single framework contract: when the framework agreement is awarded to one economic operator. This type of contract is used when the specifications are well defined and will not change for the contract duration.
5. In a multiple framework contract, the contracts shall be awarded to a minimum of three and maximum of five framework contractors, who shall be invited to participate every time the Contracting Authority has a need covered by the contract. The framework contractors invited to submit offers for each particular requisition shall do so through a simple procedure and the



cheapest bidder shall be awarded. The Contracting Authority may, depending on the framework agreed, invite all the framework contractors to submit offer or randomly pick a minimum of three.

6. Framework contracts for goods shall follow the same procedures as Open Bidding.

4.6.2. Multiple framework contract: awarding procedure for specific requests

- (2) For awarding procedure for specific requests see section 3.7.4 and 3.7.5 of these Guidelines. Award criteria for goods is the price, i.e. technically compliant bid with the lowest price.

5. Procurement of Works

5.1. Type of work contracts (lump sum and unit price)

1. Works contracts are those covering all work associated with the construction, reconstruction, demolition, repair or renovation of a building, structure or construction, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to works such as drilling, mapping, satellite photography, seismic investigations and similar services provided pursuant to the procurement contract, if the value of those services does not exceed that of the works itself.
2. Works are generally contracted through two types of contracts, lump sum and unit price.
 - a) **Lump sum:** with this kind of contract the contractor agrees to do the works as described and specified in the bidding documents for a fixed price. A lump sum is suitable if the scope and schedule of the project are sufficiently defined. In the lump sum an all-inclusive price covers all the works concerned by the Contract. The all-inclusive price, if necessary, shall be calculated on the basis of the Breakdown of the Lump Sum price; in such case, an all-inclusive price shall be given for each separate item in the itemised breakdown. The total price shall be calculated by adding together the various all-inclusive prices for all such items. Where items are accompanied by quantities, these shall be firm quantities drawn up by the Contracting Authority. The firm quantity is the quantity for which the Contractor has submitted an all-inclusive price, which must be paid to it irrespective of the quantity actually supplied.
 - b) **Unit price contracts:** this kind of contract is based on estimated quantities of items included in the project and their unit prices (bill of quantities). The final price of the project is dependent on the quantities needed to carry out the work. This type of contract is suitable for construction projects where the different types of items, but not their numbers, can be accurately defined in the bidding documents. In these contracts, the works are broken down into different items on the basis of a Bill of Quantities drawn up by the Contracting Authority, and the proposed unit price for each item is indicated. The amounts due under the Contract shall be calculated by applying the unit prices to the quantities actually supplied in accordance with the contract.
3. It is not unusual to combine a unit price and lump sum parts in a single contract. In these cases the Bidding Documents must indicate how will the prices be calculated.
4. Each set of Bidding Documents shall specify the exact type of contract used. The Bill of Quantities and Price Schedule (for unit price contracts)/Break down of the Lump-sum Price (for lump-sum contracts) must provide sufficient information of the quantities of works to be performed to enable preparation of bids, and when a contract has been entered into, to provide an itemised basis for measuring the works executed. In order to attain these objectives, works should be itemised in the Bill of Quantities and Price Schedule (for unit price contracts)/Breakdown of the Lump-sum Price (for lump-sum contracts) in sufficient detail to distinguish between the different categories for works, or between works of the same nature carried out in different locations or any other circumstances which may give rise to variation of costs. Their layout and

content should be as simple and brief as possible, while remaining consistent with these requirements.

5.2. Preparation of the cost estimates to determine the contract value

1. After the Technical Specifications have been approved, the Requisition Function, in case of simple works contracts shall conduct a market research to estimate the value of the works to be procured. In most cases the estimations shall be done through studies done by specialized engineering firms contracted through a service contract.
2. The estimated value shall not be deployed in the Bidding Documents and shall be kept confidential by the Contracting Authority.

5.3. Procurement procedures

5.3.1. Contracts with a value of US\$ 500,000 and above.

1. Contracts with an estimated value equal to and higher than US\$ 500,000 USD will be tendered through Open Bidding (Schedule 3) unless a specific derogation granted by the competent authority allows the use of a different procedure.
2. The Open Bidding may be Local, Regional or International according to the thresholds established in Schedule 4.
3. The estimations of value in works contracts must be done by specialized experts.

5.3.2. Contracts with a value of US\$ 200,000 and below 500,000

1. Contracts with an estimated value of US\$ 200,000 and below US\$ 500,000 shall be tendered through Limited Bidding unless a specific derogation granted by the competent authority allows the use of a different procedure.

5.3.3. Contracts with a value of US\$ 2,000 and below 200,000

1. Contracts with an estimated value of US\$ 2,000 and below US\$ 200,000 shall be tendered through Negotiated Procedure.
2. For contracts below US\$ 20,000 the Contracting Authority may use simplified Bidding Documents.

5.3.5. Exceptional procedures

1. In exceptional cases, with the prior approval of the Accounting Officer or a delegated authority, the Procuring Entity may use Negotiated Procedure for contracts over the mentioned ceilings according to the SADC Secretariat and programme rules and regulations.
2. The Contracting Authority may use the exceptional procedures on the following cases:
 - a. There was previously an unsuccessful open or restricted procedure and the Contracting Authority cannot launch a new procurement process due to emergency reasons or adverse market conditions which prevents an open competition.
 - b. For the purchase of terms on particularly advantageous terms as specified in the SADC Procurement and Grants Policy.
 - c. For works which due to safety and security reasons can only be procured for a limited reputable source.



- d. For reasons of extreme urgency brought about by events which the Contracting Authorities could not have foreseen and which can in no way be attributed to them.
 - e. For contracts declared to be secret or whose performance must be accompanied by special security measures or when the protection of the interest of the SADC Secretariat, its Member States or the beneficiary requires so.
 - f. Where the works are entrusted to public sector bodies or to non profit institutions and relate to activities of an institutional nature or designed to provide to people in the social field.
3. Under no circumstances shall the contracts be split artificially in order to avoid/manipulate thresholds.

5.4. Open Bidding for works

1. Open Bidding is the preferred bidding system for works contracts with an estimated value stipulated under article 5.3.1 above. The Open Bidding for works may be:
 - a. International: when it is published internationally according to the publication guidelines.
 - b. Regional: when it is published regionally according to the publication guidelines.
 - c. Local: when it is published locally according to the publication guidelines.
2. The thresholds are established in article 5.3 and Schedules 3 and 4 of these Guidelines.
3. This section applies equally for the three types of Open Bidding for Works as stated in paragraph 1.

5.4.1. Publicity

To ensure competition, the tender must be published according to the SADC publication guidelines.

5.4.1.1. General procurement notice

1. The Contracting Authority shall publish the general procurement notice at least 30 days prior to the publication of a specific procurement notice for International Open Bidding. For the Regional and Local Open Bidding this procurement notice shall not be compulsory.
2. The general procurement notice shall contain a brief description of the works, location and financing source. This information shall not be binding for the Contracting Authority. Its purpose is to inform potential bidders about future opportunities.
3. The general procurement notice shall be published according to SADC publication guidelines.

5.4.1.2. Specific procurement notice

1. The Contracting Authority shall publish, together with the bidding documents, the specific procurement notice according to SADC publication guidelines not earlier than 30 days after the publication of the general procurement notice.
2. The specific procurement notice shall provide all the information referring to bidders' capacity to implement the project, including technical capacity, financial capacity, economic capacity and professional capacity. It shall also contain the rules of origin and nationality applicable to the tender.
3. The time allowed for bidders to submit their application shall be sufficient to allow proper competition. The minimum period for submitting applications is thirty (30) days from the date of

publication of the procurement notice. The period shall be determined by the contract size and complexity.

4. The specific procurement notice must provide potential contractors with the information they need to determine their capacity to fulfil the contract. The selection criteria contained in the specific procurement notice (technical, economic, financial and professional capacity) must be clear, objective and possible to prove by the bidders. The selection criteria shall be adapted to the nature, complexity and cost of the assignment.
5. The Contracting Authority shall publish clarifications or corrigenda to the specific procurement notice. If the corrigenda are of substance the Contracting Authority may extend the initial deadline for submission.
6. The specific procurement notice shall be part of the Bidding Documents. It shall contain also the selection criteria (technical, economic, financial and professional), which must be assessed before assessing the technical offer.

5.4.2. The Bidding documents

1. The Contracting Authority shall issue the bidding documents ensuring that the procurement procedures are carried out correctly.
2. The bidding documents shall be published online to allow economic operators to have access to them. For Limited Bidding and Negotiated Procedure without publication the bidding documents shall only be provided to the invited economic operators.
3. The bidding documents must be comprehensive, containing all the information and templates needed to submit a bid.
4. The bidding documents must contain at least:
 - (a) Information to bidders (ITB);
 - (b) Draft contract and conditions;
 - (c) Technical Specifications;
 - (d) Model Financial Offer;
 - (e) Design documents and Drawings (except for build and design contracts);
 - (f) Bid security requirements ; and
 - (g) Implementation security requirements: performance bond, retention bond and pre-finance bond.
5. The technical specifications must be clear and should not create unjustified obstacles to competition.
6. The technical specifications must give equal access to all bidders and shall not create unjustified obstacles to competition. The technical specifications must not quote specific brands but shall specify what is required of a product or material to achieve the purpose for which they are intended. The technical specifications should include:
 - (a) Clear definition of the works to be performed;
 - (b) Specify minimum or maximum values, as appropriate
 - (c) Constitute benchmarks against which offer can be verified;
 - (d) Specify that all goods used for works must be new and unused;
 - (e) Use metric system;
 - (f) Environmental Performance;



- (g) Avoid restrictions but may be advantageous depending on complexity of works;
 - (h) Make use of reference to standards;
 - (i) Avoid use of brand names and references to catalogues (use “or equivalent” if unavoidable);
 - (j) Specify procedures for conformity assessment;
 - (k) Specify safety or measurements and quality assurance; and
 - (l) Specify guarantee requirements.
7. In cases where the Contracting Authority estimates that an information visit or a site visit to clarify technical requirements is needed, the bidding documents shall specify it, stating day, hour and location. If not part of the bidding documents, it may be modified through the addenda.
 8. The technical specifications must state the exact nature and performance characteristics of the works. Where applicable, they also specify conditions for delivery and installation, training and aftersales service. The purpose of the technical specifications is to define the required works precisely. The minimum quality standards defined shall allow the Evaluation Committee to determine which tenders are technically compliant.
 9. The Contracting Authority shall request from the bidders a Bid Security to assure that the submitted bids shall not be withdrawn. The Bid Security should be between 1% and 5 % of the contract amount. For contracts under 500,000 the Contracting Authority may choose to not request a Bid Security.
 10. The Bid Security shall be released to successful and unsuccessful bidders once the contract has been signed.
 11. The Bidding documents shall specify the security which the contractor shall have to provide during implementation (Pre-finance Security and/or Performance Security).

5.4.3. Selection and award criteria

1. The selection criteria refer to the bidders’ capacity to implement the contract. The selection criteria shall verify:
 - (a) The bidder’s financial situation (financial and economic capacity), backed by statement of financial position, turnover or other objective data.
 - (b) The bidder’s technical and professional capacity, establishing average staff levels, size of professional experience and the main works delivered in the field in question the last three to eight years.
2. Only successful bidders must supply official supporting documents for the selection criteria before the award of the contract. The Contracting Authority may make all the enquiries which it considers necessary to verify the accuracy of the documents provided by bidders.
3. The selection criteria must be precise, non-discriminatory and should encourage fair competition.
4. Price shall be the award criterion for works, i.e. all non-compliant bidders having been eliminated; the contract shall be awarded to the bidder submitting the least expensive compliant tender.
5. If the tender is divided into Lots, the Contracting Authority, if specified in the Bidding Documents, may award a contract that covers multiple Lots even if the price per Lot is not the



highest ranking, but the bidder is offering a discount for multiple lots that would once calculated overall result in best price when summed up.

5.4.4. Questions/Clarifications during proceedings

1. The Contracting Authority may on its own initiative provide the bidders with additional information in case necessary always respecting fair competition. The clarifications or corrigenda must be published according to SADC publication guidelines.
2. The bidders may submit questions in writing no later than 21 days before the deadline for submission of tenders. The Contracting Authority must reply no later than 11 days before the deadline for submission. The reply must be published and not sent to the entity making the enquiries.
3. The Contracting Authority may hold a pre-bid information meeting, whether at the site or at the premises of the Contracting Authority. The meeting must be announced and must take place no later than 21 days before the deadline for submission.
4. The attendance to the meeting shall not be compulsory unless otherwise stipulated in bidding documents.

5.4.5. Submission of bids

1. The bids must be submitted at the place designated in the bidding documents within the date and time established in the bidding documents. The deadline for submission must be long enough to guarantee the quality of the bids and allow competition, in any case not shorter than the minimum period allowed as per 5.4.1.2 above.
2. On receiving the bids, the Contracting Authority shall register them, indicating day and time of submission and keeping receipts.
3. The envelopes must remain sealed and kept in a safe place till the opening session. The outer envelopes containing the bids must be numbered in order of receipt (whether or not received within deadline).
4. A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice by certified mail, duly signed by an authorized representative, and shall include a copy of the authorization. The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be submitted by courier/mail and, in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" in addition, they must be received prior to the deadline for submission.
5. Bids requested to be withdrawn shall be returned unopened to the Bidders.
6. No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

5.4.6. The evaluation process

The evaluation process is divided in the following steps:

(a) Preparatory phase.

1. The first meeting of the Evaluation Committee must precede the opening session.



2. The Secretary of the Evaluation Committee shall circulate the bidding documents to the evaluators.
3. All members must be present.
4. The Chairperson shall make a presentation of the tender explaining the procedures to be followed by the Evaluation Committee in the evaluation sessions.
5. The members of the Evaluation Committee shall sign the impartiality and confidentiality statements.

(b) Tender opening.

1. The evaluation shall meet for the tender opening session. During the session the Evaluation Committee must verify the following:
 - (a) Registration number on the envelope;
 - (b) Name of the tenderer;
 - (c) Date/time of submission;
 - (d) All bids received are available for the opening session and numbered in order of reception;
 - (e) Outer envelope is sealed;
 - (f) Technical and financial part of the bid included. Note any discounts;
 - (g) Whether the submission form is in the technical offer; and
 - (h) Whether the Bid Security is included, if applicable.
2. The tender opening is a formal public process. The opening session shall take place in public at the place and time set in the bidding documents. Participation of the opening session can be restricted to representatives of the bidders.
3. The chairperson shall read out loud the name of the bidders and the correspondent amount of the financial offers.
4. Envelopes marked "WITHDRAWAL" shall be opened and read out first and the envelope with the corresponding bid shall not be opened, but it will be returned to the Bidder. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid shall be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but it will be returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Bid.
5. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only envelopes that are opened and read out at Bid opening shall be considered further.
6. The secretary of the Evaluation Committee shall prepare an Bid Opening Report to be presented for signature to all the members of the Evaluation Committee; the report must contain the list of the bids which have complied with the requirements of the opening phase.
7. Bids received after the deadline for submission will be disqualified and returned to the bidders unopened.



(c) Administrative compliance

1. Once the opening session is completed, the Evaluation Committee shall proceed (in the same or different sessions) with the assessment of the administrative compliance. Major formal mistakes shall lead to the rejection of the bid.
2. During administrative compliance the Evaluation Committee shall not go into the content of the technical offer. The following elements shall be taken into account:
 - (a) Bid submission form is duly completed;
 - (b) Signed by all the members of the consortium and the leader;
 - (c) Language requirements;
 - (d) Documentation is complete;
 - (e) Declaration with exclusion criteria signed by all members of the consortium;
 - (f) Rule of nationality is respected; and
 - (g) Any other administrative requirement as per the bidding documents.
3. The Evaluation Committee shall verify all these elements assisted by the Secretary. Non-compliant bids must be excluded from further evaluation.
4. The Evaluation Committee may request for clarifications to one or more bidders giving reasonable time to answer depending on the clarification requested. The clarifications may refer to the content of documents provided or complementing documents/information provided, seeking missing signatures, even seeking missing administrative documents if those will not result in advantage to one over the other bidder (e.g. financial statements, judicial certificates, proof of registration of economic operator, power of attorney).
5. The administrative compliance shall be documented in the evaluation report.

(d) Technical evaluation

1. Once the administrative compliance is completed the Evaluation Committee shall examine the technical offers to verify which bidders satisfy the minimum technical requirements set in the technical specifications.
2. Once the technical compliance is evaluated, the evaluators shall evaluate if the proposed fulfils the requirements of the rule of origin. In case there is any doubt as to the origin, the Evaluation Committee may request for clarifications or make enquiries/requests to the competent authorities to verify the compliance.
3. The bidders shall be required to provide proof of origin in the form of a certificate of origin or other official documentation as evidence, if applicable, as per the bidding documents.
4. Bids proposing works not compliant with the rule of origin shall be rejected.
5. The Evaluation Committee shall rule on the technical compliance of each bid, classifying them as technically compliant or technically not compliant.
6. The Evaluation Committee may request clarifications from the bidders giving them reasonable deadline.

(e) Financial evaluation

1. Once the technical evaluation is completed the Evaluation Committee verifies that the financial bids presented by technically compliant bidders do not contain arithmetical errors. The Evaluation Committee shall correct any arithmetical error.



2. If the tender procedure contains several lots, financial bids are compared per lot. The evaluators shall select the best financial bid per lot, taking into consideration any discounts.
3. Notwithstanding provisions of the previous paragraph, Evaluation Committee will consider offers for multiple lots and discounts as per Section 5.4.3(5) of these Guidelines.
4. The Evaluation Committee may request clarifications from the bidders giving them reasonable deadline.
5. For unit price contracts the Evaluation Committee shall carefully check the content/accuracy of the bill of quantities, which must be provided also in electronic copy.
6. The Evaluation Committee may request clarifications from bidders giving them reasonable deadline.
7. The Evaluation Committee shall be specifically attentive to abnormally low bids making enquiries about the prices proposed. An abnormally low bid may be disqualified. The Evaluation Committee shall justify its decision.

(f) Application of award criteria (lowest price)

1. The successful bidder shall be the one submitting the least expensive bid classified as technically compliant.
2. The Evaluation Committee shall propose awarding the contract to the successful bidder.
3. If the bidding documents expressly allow variant solutions, such will be taken into consideration separately. The Contracting Authority may take the variant solutions into consideration when submitted by the bidders provided that the requirements specified in the bidding documents are met and only in cases where the price of the variant proposed is lower than that of the successful bidder.
4. If all of these requirements are met the Evaluation Committee may compare the variant solution and the original offer and recommend the best solution to the Contracting Authority.
5. In tenders for works the bidding documents must not mention the maximum budget. When lowest financial proposal is above the maximum budget, the Evaluation Committee may if it is possible and meets the needs of the beneficiary/project propose awarding the contract to the successful bidder reducing the scope of the works.

5.4.7. The contract award

1. Once the evaluation report is approved by the relevant authority, the Contracting Authority shall issue a notice of intention to award the contract to all the bidders which participated in the process by giving them fifteen (15) days within which to submit a complaint.
2. After the fifteen (15) days have elapsed, the Contracting Authority shall send the award notice to the successful bidder requesting from the potential contractor a confirmation of acceptance which will have the effect of extending the validity of the bid for a period of sixty (60) days.
3. If the potential contractor does not accept the award the Contracting Authority may chose to execute the Bid Security. In this case the Contracting Authority shall propose the award to the second lowest technically compliant bidder.



5.5. Negotiated Procedure

1. Under this procedure the Procuring Entity will enter into negotiations with the entity/entities pre selected in order to enter into contract with a contractor.
2. The Procuring Entity shall enter into negotiations with at two Economic Operators when applying Negotiated Procedure with Publication and one Economic Operator when applying Negotiated Procedure without Publication.
3. The Procuring Entity will nominate an Negotiation Committee that has the same composition as the Evaluation Committee and will establish comprehensive bidding documents as in the rest of the bidding procedures.
4. The bidders shall submit their offers according to the bidding documents in a given deadline.
5. The Procuring Entity may hire independent expertise in order to participate in the evaluation as advisors to the members of the Evaluation Committee. Those independent experts shall not be evaluators but advisors to the Committee. The advisors shall produce a report on the evaluation procedure which shall be annexed to the Evaluation Report.
6. All bidders shall be treated equally.
7. The opening session shall be public. The negotiations shall be held separately with each bidder. The Evaluation Committee shall produce a detailed evaluation report containing the description of the negotiations with each bidder.
8. The negotiations may include discussions on the price, extension and the scope of the contract.

5.6. Modification of works contracts

1. Unit price contracts are paid on measurements against the bill of quantities. In such contracts, the quantities in the bill of quantities are estimates (although they are expected to be very accurate). Whenever an application for payment is submitted, the supervisor measures, for each item, the actual quantities of the works executed in order to calculate the amount due through applying the unit rates.
2. Increases on the initial contract price which are the sole result of the measured actual quantity exceeding the bill of quantities do not represent a contract modification, however an administrative order or addendum shall be required in order to increase the overall contract budget.
3. The application of the price revision clause of the contract shall have an automatic effect and shall not require any addendum or administrative order to have the effect of increasing the budget, since the parties already agreed upon the formula.
4. Works contract can be amended through:

(a) Administrative order

1. In works contracts, the supervisor, with the written consent of the Contracting Authority, or the Task Manager if performing supervision him/her self may be empowered to issue an administrative order to change any part of the works if necessary for the proper completion of the works. These changes may include additions, omissions, substitutions, changes in quality, changes in quantity, form, character, kind, position, dimension, level or line and changes in the specific sequence, method or timing in the execution of the works.

2. The contractor is obliged to make the changes ordered by the supervisor or the Task Manager, and cannot delay the works ordered pending a decision on the claim he might have either to extend the implementation period or for additional payment.
3. The supervisor shall not be allowed to approve changes in budget, scope of the works or completion date without the written authorisation of the Contracting Authority.

(b) Addendum

1. Changes in budget, completion date and scope of the works shall be done through addendum agreed and signed by both parties.
2. The total implementation period shall be the works implementation period and the defects liability period, which is the period between the provisional acceptance and the final acceptance. During this entire period budget, scope of works and implementation period can be modified.
3. Lump sum contracts will require a substantial change in the circumstances or a change in the scope of the works in order to generate an increase in the budget.
4. Extensions of time must be justified and approved by the Contracting Authority.
5. All modifications in completion date, time and scope of the works must be fully justified.

6. Grants

6.1. General rules

6.1.1. Definition and nature of grants: procurement and grants

1. Grants are direct non-profit financial contributions from SADC budget to a beneficiary in order to finance any of the following:
 - a) An action or group of actions oriented to achieve a SADC objective. These are action grants and finance specific actions.
 - b) The functioning of a body/institution, which pursues an aim of general interest for SADC or its Member States. These are operational grants and finance a work programme.
2. Grants are always awarded through a legal agreement, which may be a contribution agreement, a financial agreement, a contract, a convention or a similar legal frame.
3. Grants shall take any of the following forms:
 - (a) reimbursement of a specified proportion of the eligible cost;
 - (b) reimbursement on the basis of unit costs;
 - (c) lump sums;
 - (d) flat rate financing; or
 - (e) a combination of the above
4. Procurement and grants are actions of different nature and objective. Procurement covers public contracts concluded with economic operators to obtain services, goods or works in return for a payment generally generating profit by the economic operator. The economic operators are selected via bidding and each tender (or a Lot if the bid is divided into Lots) generates only one contract. On the other hand, grants constitute financial support to an action of an external organisation/entity whose activities contribute to SADC's objectives by means

of subsidy. Grants are non-profit and beneficiaries are selected via calls for proposals, which might finance not only one but more entities proposing relevant activities. Grants may cover totally or partially the cost of the activity proposed for financing. Generally, grants require the beneficiary to finance a part of the action (co-financing).

5. Grants can be awarded through a direct agreement only under circumstances specifically provided for in the legal frame governing the grant.
6. Grants given to a beneficiary may involve secondary procurement i.e. when the action involves buying services, goods or works from third parties / economic operators. These activities shall be done through subcontracting as per procedures stipulated in specific Calls for Proposals.
7. Grants by nature are non-profit (i.e. must not generate profit or it must only balance income and expenditure for the action, unless the objective is to reinforce the financial capacity of a beneficiary or generate income), but nevertheless, if stipulated in the guidelines for applicants, they can be awarded to profit-making economic operators, but those economic operators cannot generate profit from that grant. Contracting Authority must pay special attention that in such cases market is not distorted by awarded grant.

6.1.2. Actors

There are up to six type of actors in a grant:

a) The funding institution/s

The funding institution(s) is the body providing the financial allocation for the grant. The funding institutions may be the same as the Contracting Authority or may be a third body (i.e. an international body (World Bank, EU, African Union) financing grants to be awarded by the Contracting Authority.

b) The Contracting Authority

The Contracting Authority is the body signing the contract with the grant beneficiary. The Contracting Authority shall be the body in charge of monitoring/evaluating the implementation of the actions and making payments.

c) The applicant/beneficiary

The applicant, when awarded a grant, shall become the beneficiary. The role of the beneficiary shall be to lead the implementation of the actions as per the agreement with the Contracting Authority. The beneficiary shall be solely responsible before the Contracting Authority for the implementation of the grant.

The beneficiaries can be either private bodies (associations, NGOs, private companies, individuals or any other economic body) or public bodies (national or international administrations). SADC Secretariat may award grants to Member States and its public bodies. SADC Secretariat may, if allowed by the contribution agreement or similar legal frame, sub-grant to third parties.

In case several applicants present one proposal under a consortium there will be a lead applicant as provided in paragraphs d) and e).

d) The co-applicants/co-beneficiaries (if any)

A single applicant or a consortium may present the grant application. Every consortium shall have a lead applicant (defined in the previous paragraph) and one or more co-applicants. The actions to be undertaken by the co-applicants must be defined in the proposal. Co-applicants, once

became co-beneficiaries, shall participate in designing and implementing the action, and their costs are eligible in the same way as those incurred by the applicant.

The lead applicant shall sign the contract on behalf of the whole consortium and shall act as project coordinator before the Contracting Authority. The relations between the members of the consortium shall be regulated by a consortium agreement.

Co-applicants must comply with the same eligibility rules as the lead applicant.

e) Affiliated entities (if any)

The consortium may contain also affiliated entities, which shall not be part of the grant agreement but may participate in the implementation and their costs are eligible in the same way as those incurred by the beneficiaries.

Affiliated entities are legal bodies with a link to the applicant. The link must be structural and permanent not related only to the specific action.

Affiliated entities must comply with the same eligibility rules as beneficiaries.

f) Subcontractors

Grants guidelines may allow beneficiaries the subcontracting of a number of activities. These may include buying equipment, implementing works or delivering services. The instructions for applicants shall define the frame of that subcontracting which should not go over 50% of the total value of the grant.

Subcontractors are not beneficiaries and their responsibilities do not go beyond their specific contract.

6.1.3. Co-financing and eligible costs

1. The grant may cover entire cost of action or its percentage. The grant shall only cover the eligible costs. Non-eligible costs will not be reimbursed.
2. Generally, the Contracting Authority's contribution shall cover a certain percentage of the eligible costs according to the rules set up in the call for proposals. The call for proposal shall also establish the maximum and minimum amounts of the contribution.
3. The co-financing may be provided by the beneficiary's own resources, income generated by the action or contribution from other donors, as per the provisions of the specific Call for Proposals.
4. When it is stipulated by the specific guidelines for applicants, the beneficiaries may propose in kind contribution as co-financing. This means the provision of good or services free of charge by the beneficiary or a third party, which will be allocated to the activity. Thus, in kind contributions do not involve any expenditure for the grant beneficiary but are considered as contribution to cover the beneficiary's contribution.
5. Grants operate on basis of reimbursements of actual eligible cost incurred by the beneficiary during the implementation of the action. The costs must have been incurred by beneficiary.
6. The specific guidelines for applicants for each call for proposal shall define the eligible costs. The proposal presented by the applicants shall propose their costs according to the content of the guidelines for applicants. Only the costs approved by the Contracting Authority will be financed by the grant.



6.1.4. Eligibility criteria

1. The guidelines for the specific calls for proposals will define what the eligibility criteria are. The eligibility criteria will define the type of entities, which may apply for the grant.
2. The eligibility criteria must comply with the general principles mentioned in these Guidelines. The eligibility may refer to:
 - a) Nationality
 - b) Region/geographical area of activity
 - c) Profit/non-profit organisations
 - d) Scope of activity of the institution
 - e) Previous experience (technical capacity)
 - f) Financial/economic capacity
 - g) Grounds for exclusion (para 2.5.2)
3. The grounds for exclusion contained in these Guidelines (para 2.5.2) are applicable to grant applicants.
4. Natural or legal persons are not entitled to participate in calls for proposals or be awarded grants if they fall into any of the mentioned grounds for exclusion.

6.2. Grant principles

The Contracting Authority must comply with the following principles when launching call for proposals and prepare guidelines for applicants:

1. Programming/publication

The Contracting Authority must programme the calls for proposals establishing clear objectives. Calls must be published according to publication guidelines.

2. Transparency

Calls must be published according to publication guidelines (except in cases of direct award of grants). The Contracting Authority shall publish a yearly list of all awarded grants.

3. Equal treatment

The grant award procedure must be impartial; all proposals must be evaluated through an impartial Evaluation Committee and all applicants will be treated equally.

4. Non-cumulation

Beneficiaries shall not receive more than one grant for the same action. Several donors on percentage basis may finance one action but the financing must never go beyond 100% of the total cost.

5. Non-retroactivity

Grants shall only cover costs incurred after the date of the contract signature. Only exceptionally may a call for proposal or a direct grant cover activities that already begun before the contract signature date. These cases must be carefully justified and will be subject of a specific derogation.

Under no circumstances a grant may be awarded retroactively for actions already completed.



6. Co-financing

As a general rule, a grant shall not finance the entire cost of the action or the entire operating expenditure (operational grants).

7. Non-profit

Grants shall not produce profit. Profit is a surplus of the receipts over the eligible cost of the action approved by the Contracting Authority when the request for payment is made.

6.3. Award procedures

There are two ways of awarding grants, through call for proposals (competitive procedure) or through direct agreements (direct awards).

6.3.1. Direct awards

1. The Contracting Authority may award grants directly, on non/competitive basis, when there is a legal agreement allowing it (contribution agreement, financing agreement, convention, contract or other legal basis). In this case, the Contracting Authority must prepare a negotiation report stating the manner in which the beneficiary is chosen and the budget established.
2. The Contracting Authority shall assure that the grant principles are complied with during the implementation (especially those referred to expenditure verification).

6.3.2. Call for proposals

1. Launching calls for proposals is the preferred way of awarding grants.
2. A call for proposal is a mechanism whereby a competitive selection process is launched to choose grant beneficiaries. The call for proposal allows a number of beneficiaries to obtain funding according to the proposals made and the budget available.
3. Calls for proposals may be open or restricted.
 - a) Restricted calls for proposals is a two-step procedure where all applicants meeting the eligibility conditions according to their own assessment may apply for the Grant but only the applicants who have been short listed (on the basis of their concept note) are invited to submit a full proposal
 - b) Open calls for proposals is a single-step procedure where all applicants meeting the eligibility conditions according to their own assessment are free to submit at once the concept note and the full application for a Grant in response to the published guidelines for applicants.
4. The Contracting Authority will choose the most appropriate method for each call.
5. Restricted calls are generally used when the expected number of applications is very high whilst Open Calls are generally used when the expected number of applications is low.

6.3.2.1. Publicity

1. Call for proposals must be published according to SADC publication guidelines in order to ensure transparency and equal treatment.
2. SADC shall publish the guidelines for applicants of all the call for proposals it launches, whether restricted or open.

6.3.2.2. The guidelines for applicants

1. The guidelines for applicants is a document which contains all the requirements to participate in a call for proposal. It explains the purpose of the call, the rules of eligibility of applicants, the types



of actions and costs which are eligible for financing, the % of co financing required, the maximum and minimum of financing that may be requested, the available budget for the cost, the mechanism for cost reimbursement, guarantee requirements (if any), the evaluation (selection and award) criteria and the deadline for submission of proposals. It also contains instructions on how to fill the application form, documents which will have to be attached and procedures to follow for applying. They shall also contain information on the evaluation process and the draft contract for successful applicants.

2. The Guidelines for applicants must contain at least the following:
 - (a) amount available for the call and source of the funding;
 - (b) maximum and minimum amount funded per grant;
 - (c) amount of co-finance needed;
 - (d) eligibility rules for candidates, which determine the conditions for participating in the call for proposal. These criteria shall be established with due regard for the objectives of the action and shall comply with the principles of transparency and non-discrimination;
 - (e) eligible actions under the call. This criterion shall be established with connection with the objective of the call;
 - (f) eligible costs under the call;
 - (g) maximum percentage and activities that can be subcontracted through secondary procurement;
 - (h) deadline for submissions;
 - (i) selection criteria;
 - (j) award criteria;
 - (k) maximum implementation period;
 - (l) payment conditions, including if necessary conditions for pre financing guarantee; and
 - (m) reporting conditions (audit, monitoring and evaluation).

6.3.2.3. Eligibility and evaluation

(a) Eligibility criteria

1. The eligibility criteria shall define the conditions for participation in a call for proposals. They must be prepared with regard for the objectives of the action and be transparent, objective and non-discriminatory.
2. The eligibility criteria apply to:
 - (a) the eligibility of the applicants (for example nationality, legal status and any other grounds for exclusion, financial capacity, technical capacity);
 - (b) the eligibility of action (it may refer to the type of activities, geographical area, sectors);
 - (c) the eligibility of cost (types of costs eligible for financing).

(b) Evaluation criteria: selection and award

1. The evaluation criteria shall be listed and defined in the call for proposals (evaluation grid). There are the selection criteria and the award criteria.
2. The selection criteria shall assess the applicant/s' financial and operational capacity to implement the action. The economic and financial criteria shall assure that the beneficiary shall have enough resources to keep the action operating considering that payments are done on basis of reimbursements of incurred expenditure.
3. The operational capacity criteria shall show that the applicants' experience, professional competencies and qualifications are adequate to implement the action proposed.



4. The Contracting Authority shall verify both the financial and operational capacity of the legal entities proposed for award (except in cases of public administrations and public bodies or in cases in which grants are given to natural persons in need).
5. The award criteria refer to the relevance of the action and its compatibility with the objectives of the call/programme framing the call. They refer to the quality, expected impact, sustainability, cost effectiveness and others.
6. The eligibility and evaluation criteria are specific to each call and must be applied as specified therein.

6.3.2.3. Request for clarifications

1. In the period between the publication of the call and the deadline for submission applicants will be able to request clarifications on the content of the guidelines for applicants.
2. The Contracting Authority should answer to those clarifications through online publication (according to SADC publication guidelines).
3. Applicants may submit questions in writing not later than 21 days before the deadline for submission of applications. The Contracting Authority must answer to these questions not latest than 11 days before the deadline for submission.

6.3.2.4. Deadline for submission of proposals

1. The guidelines for applicants shall establish the deadline (day/hour) and location for submitting the proposals. This deadline should be long enough to allow applicants to prepare good proposals.
2. For open grants the minimum period should be 45 days for grants of US\$150,000 and above. For grants below US\$ 150,000 it may be between 30 and 45 days.
3. For restricted grants, the period for submitting concept notes should be no shorter than 45 days.
4. The Contracting Authority may establish shorter deadlines through derogation.

6.3.2.5. Submission of proposals

1. The proposals shall be submitted following the instructions contained in the guidelines for applicants.
2. As a general rule, the supporting documents shall not be requested till the proposals are selected for award although the Contracting Authority may decide otherwise.
3. The proposal and the supporting documents should be in the language established in the guidelines for applicants.
4. The Contracting Authority, for grants of US\$ 750,000 and above, may request an audit report from the beneficiary approved by external auditor certifying its accounts for the last available year. The requirement to submit an audit report shall not apply to public bodies or international organizations.

6.4. Evaluation of the proposals

6.4.1. Evaluation Committee

1. The Evaluation Committee shall evaluate the proposals/applications. The Evaluation Committee shall have the same composition as those for procurement processes.



2. The evaluators must have the technical capacity necessary to give an informed opinion on the proposals.
3. The evaluators, as well as the chairperson, the secretary and observers, shall sign impartiality and confidentiality statements.
4. The Evaluation Committee may request clarifications on documents/information received. Clarifications shall not alter or change the proposals nor give applicant opportunity to improve the application.

6.4.2. The evaluation process

1. Once the Contracting Authority has received the concept notes (for restricted calls) or the full proposals (for open calls), the Evaluation Committee shall start the evaluation process which shall end with the approval of recommended grant awards, in accordance with the procedure described under section 6.4.2 (4).
2. Internal Tender Committee shall review recommendation(s) for award of grant(s) and:
 - (a) where appropriate, recommend the award of grant(s) to the Executive Secretary for final approval; or
 - (b) where there is a need for the review, refer the recommendations for award of grant(s) back to the Evaluation Committee for appropriate action.
3. For Grants to be awarded to Non-State Actors in SADC Member States, the Executive Secretary shall seek a no objection on the recommended award of grant(s) from SADC Member States through the Standing Committee of Senior Officials established under Article 9 of the SADC Treaty.
4. The evaluation process has the following steps:
 - (a) Preparatory meeting**
 1. The first meeting of the Evaluation Committee must precede the opening session. The Secretary of the Evaluation Committee shall circulate the Guidelines for Applicants to the evaluators, make a presentation of the Call and explain the procedures to be followed by the Evaluation Committee.
 2. The members of the Evaluation Committee and any Observers shall sign the impartiality and confidentiality statements.
 - (b) Receipt and registration of proposals**

The Contracting Authority shall register all the proposals upon arrival and provide a receipt for those delivered by hand. The envelopes must remain sealed and safe till the opening session.
 - (c) Step One - Opening and administrative checks and Concept Note evaluation**
 1. The proposals received shall be opened in an opening session at which the registration details shall be checked and the proposals numbered.
 2. The register of concept notes/proposals shall contain at least the following: registration number of the concept note/proposal, submission date and time and applicant's name and address.
 3. For each proposal the original shall be kept safely and the copies shall be given to the evaluators.



4. The proposals that have been received before the deadline for submission shall be subject to an administrative check to assess whether they meet all the criteria mentioned in the Checklist for the Concept Note, Administrative Part.
5. If the Applicant does not meet all the criteria mentioned in Checklist for the Concept Note, Administrative Part, the proposal shall be rejected and not evaluated further.
6. Members of the Evaluation Committee shall evaluate the concept note according to the objectives of the call established in the guidelines for applicants once the administrative check is finished. For this, the evaluators must use the evaluation grid contained in the Guidelines for Applicants. The overall assessment shall be based on the sum of scores obtained under each subheading. Final score will be sum of scores of each voting member, divided by number of voting members.
7. During the opening and administrative check the following will be assessed:
 - (a) If the deadline has been met. Otherwise, the application will be automatically rejected and returned unopened to the applicant.
 - (b) If the concept note satisfies all the criteria specified in the checklist in {restricted section 2 of Part A} {open: section 7 of Part B} of the grant application form. This includes also an assessment of the eligibility of the action. If any of the requested information is missing or is incorrect, the application may be rejected on that sole basis and the application will not be evaluated further.
8. The concept notes that pass this check will be evaluated on the relevance and design of the proposed action.
9. The concept notes will receive an overall score out of 50 using the breakdown in the published evaluation. The evaluation will also check on compliance with the instructions on how to complete the concept note, which can be found in Part A of the grant application form.
10. Once all concept notes have been assessed, a list will be drawn up with the proposed actions ranked according to their total score.
11. Firstly, only the concept notes with a score of at least 30 will be considered for pre-selection.
12. Secondly, the number of concept notes will be reduced, taking into account the ranking, to the number of concept notes whose total aggregate amount of requested contributions is equal to at least 200% of the available budget for a call for proposals. The amount of requested contributions of each concept note will be based on the indicative financial envelopes for each lot, where relevant.
13. After the evaluation of concept notes, the Contracting Authority will send letters to all lead applicants, indicating whether their application was submitted by the deadline, informing them of the reference number they have been allocated, whether the concept note was evaluated and the results of that evaluation.
14. The applicants selected to submit full application shall be informed of the deadline for submission, in case of Restricted Call. In case of Open Call the Evaluation Committee will proceed to the next step, Evaluation of Full Application.
15. Except as provided for in paragraph 8(a) of this Section, the Contracting Authority must keep safe the proposals which were excluded from further evaluation on administrative grounds.



16. Entire process shall be documented in the evaluation report for Step One as drafted by the secretary and signed by all Evaluation Committee Members.

(d) Step Two - Evaluation of Full Application Form

1. The full application shall be evaluated using the evaluation grid as published in the guidelines for applicants. The overall assessment shall be based on the scores obtained under each subheading. Final score will be a sum of scores of each voting member, divided by number of voting members.
2. The full applications will be further evaluated on their quality, including the proposed budget and capacity of the applicants and affiliated entity(ies). They will be evaluated using the evaluation criteria in the evaluation grid published in the Guidelines for Applicants. There are two types of evaluation criteria: selection and award criteria.
3. The selection criteria evaluates the applicant(s)'s and affiliated entity(ies)'s operational capacity and the lead applicant's financial capacity and are used to verify that they:
 - (a) have stable and sufficient sources of finance to maintain their activity throughout the proposed action and, where appropriate, to participate in its funding (this only applies to lead applicants);
 - (b) have the management capacity, professional competencies and qualifications required to successfully complete the proposed action. This applies to applicants and any affiliated entity(ies).
4. The award criteria evaluates the quality of the applications in relation to the objectives and priorities set forth in the Guidelines for Applicants, and to award grants to projects which maximise the overall effectiveness of the call for proposals. The award criteria assist in selecting applications which the Contracting Authority can be confident will comply with its objectives and priorities. They cover the relevance of the action, its consistency with the objectives of the call for proposals, quality, expected impact, sustainability and cost-effectiveness.
5. Provisional selection: after the evaluation, a table will be drawn up listing the applications ranked according to their score. The highest scoring applications will be provisionally selected until the available budget for this call for proposals is reached. In addition, a reserve list will be drawn up following the same criteria. This list will be used if more funds become available during the validity period of the reserve list.
6. Applications that did not receive a minimum of 65 points will not be considered further.
7. The Evaluation Committee shall analyse the budget proposed and shall consider if it corresponds to the action proposed. The Evaluation Committee may propose to reduce or to increase the funding of a proposal, but never below minimum or above maximum amount allocated per project (i.e. total eligible cost). Detailed remarks will be recorded in the evaluation report on the budget, which in line with published guidelines and the criteria therein will guide the Procurement and Requisitioning Functions on budget clearing prior to contracting.
8. Once the required approvals have been received, the Contracting Authority shall send a notification to the applicants informing (i) whether they have been proposed for funding according to their score and (ii) inviting those selected for funding to submit supporting documents (as per guidelines for applicants).

(e) Step Three - Eligibility checks



1. The Evaluation Committee, with the assistance of the secretary shall check the supporting documents sent by the applicants to verify eligibility according to guidelines and the declarations submitted by the applicants.
2. Eligibility check will only be performed for the applications that have been provisionally selected according to their score and within the available budget for this call for proposals.
3. The declaration by the lead applicant will be cross-checked with the supporting documents provided by the lead applicant. Any missing supporting document or any inconsistency between the declaration by the lead applicant and the supporting documents may lead to the rejection of the application.
4. The eligibility of applicants and the affiliated entity(ies) will be verified according to the criteria set out in the Guidelines for Applicants.
5. Any rejected application will be replaced by the next best placed application on the reserve list that falls within the available budget for this call for proposals.

(f) Conclusion

1. The Evaluation Committee shall prepare its written recommendations after examining all the proposals. The recommendations will be contained in the evaluation report signed by all the members of the Evaluation Committee.
2. The Evaluation Report shall contain a list of beneficiary/actions recommended for financing. The Evaluation report may establish a reserve list also.
3. The list may decide not to allocate all the available funds if it finds that there are too few proposals meeting the minimum quality required to receive a grant (score being below 65 points).

6.4.3. Awarding grants and contract signature

1. Once the evaluation report is approved, the Contracting Authority shall inform the applicants of the outcome and start awarding the grants.
2. The notices of award to successful applicants must be communicated within 30 days of the award decision. Unsuccessful applicants must be communicated that they have not been selected also within 30 days also.
3. Upon receipt of the notification of award, the beneficiary must communicate within 15 days its acceptance of the grant. If the Evaluation Committee made any budgetary correction it shall be communicated to the beneficiary together with the letter of award.
4. The beneficiary shall have at least 15 days to contest those cuts proposed by the Contracting Authority, and the Contracting Authority shall make a final decision no later than one month after having received the beneficiary's deposition.
5. Once the beneficiary has accepted the award, the Contracting Authority shall send a contract signed in minimum two copies to each beneficiary. The beneficiaries shall sign the contract returning one original to the Contracting Authority. The starting date for implementation shall be marked in the contract.
6. In case some beneficiaries decide not to accept the funding or additional funds are allocated to the call, the Contracting Authority may proceed to offer funding to the beneficiaries on the reserve list.



6.4.4. The grant contract

1. The Contracting Authority and the lead applicant shall be the only signatories of the agreement/contract. The rest of the members of the consortium shall not be signatories but shall remain bound in terms of the consortium agreement signed with the lead applicant. The consortium agreement shall be an annex to the agreement/contract.
2. It shall be the responsibility of the applicant and the co-applicants to fulfil the provisions of the consortium agreement. It shall not be the responsibility of the Contracting Authority to enforce it.
3. The grant agreement/contract shall contain the Special Conditions and the following annexes:

Annex I: Description of the Action (including the Logical Framework of the Project and the Concept Note);

Annex II: General Conditions;

Annex III: {Budget for the Action (worksheets 1, 2 and 3)} {for operating grants: operating budget};

Annex IV: Standard request for payment;

Annex V: Models for interim and final narrative reports;

Annex VI: {for action grants: model financial report} {for operating grants: [annex if specific models are to be used for activity reports and financial statements]};

Annex VII: Model report of factual findings and terms of reference for an expenditure verification;

Annex VIII: Model financial guarantee}, if applicable;

Annex IX: Standard template for Transfer of Asset Ownership, if applicable; or

Any other document that the Contracting Authority may deem necessary.

4. SADC Secretariat shall require the beneficiaries of grants to provide a pre-financing guarantee to limit the financial risk connected with the payment of the pre-financing for the same amount of the pre-financing. However, the Accounting Officer or a delegated authority may waive the requirement for pre-financing Guarantee if it deems appropriate and necessary.
5. Where pre-financing guarantee is required, an approved bank or financial institution in the country of the Contracting Authority/the country where the action is being implemented shall provide the guarantee.

6.4.5. Publication of information on awarded grants

Contracting Authority will publish all relevant information as per the Annex 1 – Guidelines for Publication and Visibility.

6.5. Secondary procurement/subcontracting

1. The grant implementation, whether action grant or operational grant, may require the procurement of goods, services and/or works. In these cases the grant contract shall specify the rules and regulations that shall apply to such secondary procurement.
2. The rules governing secondary procurement shall be as directed in the legal frame supporting the budgetary allocation.



3. The guidelines for applicants shall contain the limits to subcontracting activities, which shall not go beyond 50% of the total budget unless underlying financial agreement specifically allows a higher threshold.

6.6. Modification of Grant contracts

1. Grant contracts may be modified if the circumstances of project implementation have changed since the contract was signed.
2. Notwithstanding paragraph 1 above, the subject matter of the contract cannot be altered.
3. Contracts can only be modified during their period of implementation.
4. Any changes to the contract must be made by means of an addendum agreed and signed by the Contracting Authority and the beneficiary.
5. The beneficiary shall notify the Contracting Authority of change of address, change of bank account, and change of auditor (in the case of service contracts). This shall not affect the Contracting Authority's right to oppose the contractor's/beneficiary's choice of bank account or auditor.
6. Para 2.14 of these Guidelines shall also apply to grants.

6.7. Monitoring of Grant contracts

1. Monitoring is a procedure in order to verify that funds are used for their stated purpose in the Contract and also to ensure that the projects are implemented in compliance with Grant Agreement, SADC Procurement and Grants Policy and Guidelines, Financial Regulations and any other relevant SADC rules and procedures. Monitoring is also used during the life of the project as one of the tools to identify deficiencies and to recommend corrective measures in a timely fashion.
2. Monitoring is a process of collection and analysis and further use of information for the purpose of management and decision making. In addition to the external monitoring the grant beneficiaries should establish internal monitoring system to self-asses their performance.
3. Monitoring of Grants is the responsibility of the Task Manager/Requisitioning Function who may be supported by Procurement Function and Finance Function.
4. Internal monitoring process:
 - (a) tracks performance against what was planned or expected according to pre-determined targets as specified in the contract;
 - (b) highlights the strengths and weaknesses in project implementation enabling managers to deal with the problems, find solutions and adapt to changing circumstances in order to improve the projects performance; and
 - (c) provides an "early warning system", which allows for timely and appropriate intervention if a project is not in line with the initial plan.
5. External monitoring:
 - (a) Before the project implementation starts all project partners should be informed that monitoring will take place during course of the project and should provide indicative schedule; and



- (b) On-the-spot monitoring should be preferably carried out soon after the progress report is received and reviewed.
6. During the monitoring process the following is monitored:
- (c) **The Procedures:** compliance with procurement rules, eligibility of costs, compliance with publicity and visibility rules, documentation and archiving, bookkeeping and accountancy, reporting obligations, contract modifications, non-compliances and irregularities;
 - (d) **Progress of the implementation:** Technical and financial progress, performance of indicators; and
 - (e) **Problems encountered:** financial and procurement related issues, administrative problems, technical difficulties in implementation.
7. Regular on-the-spot monitoring:

On-the-spot monitoring related to management control and verifications of the activities and expenditures incurred by beneficiaries shall be conducted by SADC Secretariat staff or by external experts.

Choice of staff or experts that will carry out monitoring will ensure their impartiality in order to preserve the distinction between the monitoring and control functions.

Minimum of two scheduled visits will be carried out for every year of project implementation. This number may change to more than two depending on the project's duration, its risks and nature of these risks. If the project duration is shorter than a year the number of visits may change accordingly.

Aim of the on-the-spot monitoring is to review formal aspects of the project at key points, such as with submission of reports. Project documentation will be thoroughly checked in the process.

During the visits verification of the physical existence of the equipment and the implementation of the activities, as well as compliance with the procurement procedures are done.

8. Extraordinary on-the-spot visits:

Extraordinary on-the-spot visits are undertaken either with or without prior notification, the visits are aimed to check specific project implementation aspects with risks identified, collect additional information for problem solving and to check if information on the spot corresponds with the information received by the Contracting Authority. Due to potential unannounced checks the Grant Beneficiaries are recommended to be prepared for such checks at all times.

7. Appeal of a decision regarding procurement and call for proposals

1. Any economic operator, bidder or applicant that claims to have suffered, or that may suffer, loss or injury due to a breach of a duty imposed on the Contracting Authority by the SADC Procurement and Grants Policy and these Guidelines, may appeal decision in accordance with the procedures hereby stipulated.
2. The following shall not be subject to the review provided for in paragraph (1) of this clause:
 - (a) The selection of a method of procurement pursuant to paras 3.3, 4.3 and 5.3;
 - (b) The choice of a qualification and eligibility criteria pursuant to paras 2.5 and 2.6 of these Guidelines, if they have not been contested prior to submission of an application;



- (c) A decision by the Contracting Authority to cancel the procurement process as per Article 21 of SADC Procurement and Grants Policy;
- (d) The contractual requirements (as specified in the terms or reference or technical specifications) if they have not been contested prior to the submission of the application or the bid; and
- (e) The content of the SADC Secretariat standard solicitation documents (including the general terms of the contracts, purchase orders, templates and others);

7.1. Challenge of a decision

7.1.1. Request for clarifications

1. The Appeal Review process is a time consuming and costly process, therefore the SADC Secretariat request applicants and bidders, to seek firstly written clarifications from the Contracting Authority's Procurement and Grant Function for the respective process on any decision considered unjust by the bidder/applicant.
 - (a) To be considered valid, the bidder/applicant shall send the request for clarification or notification of breaching of SADC Secretariat procurement/grant procedure within fifteen (15) days from the notification of the Contracting Authority of the decision that is challenged by the bidder/applicant or from becoming aware of alleged irregularity in the procurement process. If the request for clarification is submitted after fifteen days mentioned above it will not be considered by the Contracting Authority.
 - (b) The submission of request for clarifications shall be sent to the Procurement and Grant Function at the address indicated in the bidding documents/guidelines for applicants. The Contracting Authority shall have seven (7) days to respond to the bidders' or applicants' request for clarification.
 - (c) If following the receipt of clarification or notification of a breach of SADC Secretariat procedure for procurement or grants from a bidder/applicant, the Procurement and Grant Function establishes that there has been a breach of SADC Secretariat procedures, it shall promptly notify the respective Tender Committee who will recommend to the Accounting Officer to suspend the procurement process until corrective measures are taken to remedy such event. In such instance, the Tender Committee shall promptly review the decision contested and decide on the matter brought into their attention.

7.1.2. Submission of a Complaint

1. If, after five (5) days from the receipt of the Contracting Authority's response to the request for clarification, the bidder/applicant is still not satisfied with the response, he/she shall escalate the matter to the relevant Tender Committee.
2. The Complaint shall be in one of the SADC Secretariat official languages (or accompanied with certified translation) and shall:
 - a) include the name, address, telephone and facsimile numbers of the Complainant.
 - b) Identify the procurement process in relation to which the Complaint arises:
 - i) describe the nature of the Complaint and the facts supporting such Complaint, including references to the SADC Secretariat Procurement and Grants Policy and Guidelines violated and the timelines of the Complaints.
 - ii) provide justification (grounds) for the Complaint
 - iii) explain the steps taken to request review of the procurement decision with the Contracting Authority (i.e. request for clarification).
 - iv) state the steps in the procurement/grant process (if any) the Complainant is requesting to be revised and/or what other remedies are sought by the Complainant; and

- v) state expressly whether the Complainant requests a hearing to present the case.
3. Only the lead member of the Complainant shall submit Complaints. Under no circumstances shall any Complaint be submitted by non-leading members of the joint-venture, consortium or subcontractors.
 4. The Complainant shall not pay any fees or charges for submitting Complaints to the SADC Secretariat and/or for the review and adoption of a decision.
 5. The complaint to the Tender Committee shall be submitted through the Procurement and Grant Function at the address indicated in the solicitation document/bidding documents.
 6. The Tender Committee shall have twenty-one (21) days to respond to the bidder's or applicant's complaint.
 7. If following the receipt of complaint from a bidder/applicant, the Tender Committee establishes that there was a breach of SADC Secretariat procedures, it shall promptly recommend to the Accounting Officer to suspend the process and take corrective measures to remedy the situation noted by the bidder/applicant in his/her complaint.

7.2. Appeal of a procurement/call for proposal decision

7.2.1. Procurement and Grants Appeals Review Committee

1. To enforce these rules, the SADC Secretariat shall have a specialized permanent body - the Procurement and Grants Appeals Review Committee - consisting of an odd number of members (minimum three), entrusted with the review and decision-making on the complaints submitted by the Complainant.
2. The External Tender Committee of SADC Secretariat shall be the Procurement and Grants Appeals Review Committee to make recommendation to the Accounting Officer on bidders/applicants complaints against tenders/grants proceedings by the Internal Tender Committee.
3. The Finance Sub-committee sitting as Procurement and Grants Appeals Review Committee in consultation with the Accounting Officer shall adjudicate appeals for all procurement handled by the External Tender Committee.
4. The Procurement and Grants Appeals Review Committee shall be supported by the Procurement Function acting as Secretary of the Procurement and Grants Appeals Review Committee, with the only role of recording the proceedings, drafting the communications with the involved parties (including the decisions of the Procurement and Grants Appeals Review Committee) and be the custodian of the appeal and hearing proceedings records.
5. The members of the Procurement and Grants Appeals Review Committee shall sign a Declaration of Impartiality and Confidentiality using the standard template.
6. No member of the Procurement and Grants Appeals Review Committee shall be member of the SADC Secretariat or should have been involved in the decision leading to the complaint, prior to the appeal proceeding.
7. In case a member of the Procurement and Grants Appeals Review Committee become aware at any time during the appeal proceedings, that she/he might be in a conflict of interest situation, she/he shall notify the Procurement and Grants Appeals Review Committee on the circumstances and request the withdrawal from the Procurement and Grants Appeals Review Committee. After analysing the situation, the Chairperson and members of the Procurement and Grants Appeals



Review Committee shall take a decision on the member's withdrawal. Such proceedings shall be recorded in the appeals proceeding records/files.

8. Decisions by the Procurement and Grants Appeals Review Committee shall be reached by consensus.
9. When deliberating, the Procurement and Grants Appeals Review Committee shall apply the SADC Secretariat Procurement and Grants Policy and Guidelines and their annexes, as well as in the documents issued during the procurement processes/calls for proposals.

7.2.2 Correction of the Decision

Within seven (7) days after the Procurement and Grants Appeals Review Committee issues a decision, either party, with notice to the other party, may request that the Procurement and Grants Appeals Review Committee to correct any errors in computation, clerical, typographical, or any errors of similar nature made in the decision. The Procurement and Grants Appeals Review Committee may, within seven (7) days after the communication of the decision, make the corrections on its own initiative. Such corrections shall be in writing.

7.2.3 Filing an Appeal

1. If, after five (5) days from the receipt of the Contracting Authority's response to the request submission of the Appeal the bidder/applicant is still not satisfied with the response, he/she may file an Appeal.
2. The Appeal shall be in one of the SADC Secretariat official languages (or accompanied with certified translation) and shall:
 - a) include the name, address, telephone and facsimile numbers of the Appellant.
 - b) Identify the procurement process in relation to which the Appeal arises:
 - i) describe the nature of the Appeal and the facts supporting such Appeal, including references to the SADC Secretariat Procurement and Grants Policy and Guidelines violated and the timelines of the Appeal.
 - ii) provide justification (grounds) for the Appeal
 - iii) explain the steps taken to request review of the procurement decision with the Contracting Authority (i.e. request for clarification and submission of Appeal).
 - iv) state the steps in the procurement/grant process (if any) the Appellant is requesting to be revised and/or what other remedies are sought by the Appeal; and
 - v) state expressly whether the Appellant requests a hearing to present the case.
3. Within five (05) days from the receipt of the Appeal, it is to be forwarded by the Procurement Function to the Procurement and Grants Appeals Review Committee.
4. The Procurement and Grants Appeals Review Committee shall reject an Appeal if it is not filed within the five (05) days period set forth in paragraph one of this section or if it does not meet the requirements set forth in paragraph two of this section.

7.2.4. Suspension of the procurement and call for proposals

1. After the Procurement and Grants Appeals Review Committee receives an Appeal, it will:
 - a) if it is the External Tender Committee, recommend to the Accounting Officer to suspend the disputed proceeding until a decision on the Appeal is issued in accordance with these rules;or



- b) if it is the Finance Sub-Committee, in consultation with the Accounting Officer, suspend the disputed proceeding until a decision on the Appeal is issued in accordance with these rules.
2. Procurement and Grants Appeals Review Committee may suspend disputed proceedings as stated above unless it is of opinion that:
- a) the Appeal is frivolous and obviously unjustified;
 - b) the Appellant filing the Appeal will not sustain irreparable harm;
 - c) the Contracting Authority may demonstrate a disproportionately greater damage produced by the suspension compared to the possible damage indicted by the Appellant filing the Appeal;
or
 - d) the suspension of the proceeding is against an important public interest.

7.2.5. Decision on accepting an Appeal

1. Where the External Tender Committee is sitting as the Procurement and Grants Appeals Review Committee it shall issue a recommendation on the Appeal within thirty (30) days from receipt of such Appeal, the period may be extended for an additional seven (07) days by a written notice from the Procurement and Grants Appeals Review Committee addressed to the Appellant who filed the Appeal.
2. Upon recommendation by the External Tender Committee sitting as the Procurement and Grants Appeals Review Committee, the Accounting Officer shall issue a written decision on the Appeal within five (05) days of receipt of the recommendation on the Appeal from the Procurement and Grants Appeals Review Committee.
3. Where the Finance Sub-Committee is sitting as the Procurement and Grants Appeals Review Committee it shall, in consultation with the Accounting Officer, issue a decision on the Appeal within thirty (30) days from receipt of such Appeal, the period may be extended for an additional seven (07) days by a written notice from the Procurement and Grants Appeals Review Committee addressed to the Appellant who filed the Appeal.
4. In making its recommendation or decision, as the case may be, the Procurement and Grants Appeals Review Committee may, at its discretion, seek assistance from experts in the area being reviewed. When such additional experts are to be consulted, the Procurement and Grants Appeals Review Committee shall use its best efforts to appoint experts who are best qualified and shall ensure that the experts do not have any direct or perceived interest in the outcome of the Appeal and have not been involved in the procurement process at any time.
5. If after the review of the Appeal, the Procurement and Grants Appeals Review Committee considers that in order to reach a conclusion on the Appeal, or if specifically requested by the Appellant in its Appeal, hearing shall be conducted, it shall notify in writing its decision to initiate the hearing proceedings.
6. The Procurement and Grants Appeals Review Committee may recommend or decide, as the case may be, to dismiss or uphold the Appeal in whole or in a part, indicating corrective measures.
7. All decisions reached by the Procurement and Grants Appeals Review Committee shall be made in writing, stating the grounds of the decision; it shall be signed by all the Procurement and Grants Appeals Review Committee members, including the date and the place where the decision was taken.
8. The Procurement Function will communicate the decision on Appeal in writing to the Appellant within five (05) days from the date of the decision.



9. The decision of the Procurement and Grants Appeals Review Committee shall be final and binding on the parties. The parties shall undertake to implement the decision without delay.

7.2.6. Costs

1. The Procurement and Grants Appeals Review Committee shall establish the costs of the hearing proceedings in making its recommendation or decision, as the case may be. The term "costs" includes only:
 - (a) The fees, travel, accommodation and other incidental expenses of the Procurement and Grants Appeals Review Committee;
 - (b) The costs of the expert advice and of other assistance (including translation) required by the Procurement and Grants Appeals Review Committee if any; and
 - (c) The travel and other expenses of witnesses to the extent such expenses are approved by the Procurement and Grants Appeals Review Committee.
2. The cost of the hearing proceeding shall be communicated to the Appellant along with the invitation to the hearing proceedings and the bank account details where the cost shall be paid.
3. The cost of the hearing procedures shall be borne by the party which was found unsuccessful in the hearing proceedings.

7.2.7 Hearing proceedings on Appeals

a) Introduction

1. The hearing proceedings shall take place up to twenty one (21) days from the date of notification of the parties on the Procurement and Grants Appeals Review Committee's decision to conduct hearing procedures.
2. In the hearing proceedings there are two parties involved: the Appellant and the Contracting Authority whose decision has led to the Appeal.
3. Subject to these rules, the Procurement and Grants Appeals Review Committee may conduct the hearing proceedings in a manner it considers appropriate, provided the parties are fairly treated and at any stage of the proceedings, each party is given the opportunity to present its case.
4. If either party requests in its Statement of Appeal (as defined in paragraph d) or the Statement of Defence (as defined in paragraph e), the Procurement and Grants Appeals Review Committee shall allow the presentation of evidence by witnesses, including expert witnesses.
5. All the documents or information supplied to the Procurement and Grants Appeals Review Committee by any party shall at the same time be communicated by that party to the other party.
6. The proceedings shall be recorded in the appeal proceeding records/files.

b) Place of hearing procedures

1. The Procurement and Grants Appeals Review Committee proceedings shall be conducted at the SADC Secretariat Headquarters in Gaborone, Botswana.
2. The Procurement and Grants Appeals Review Committee may conduct any checks it deems appropriate for the inspection of the evidence on the spot. The parties shall be given at least seven (07) days' notice for on the spot checks to be conducted and be invited to attend the checks.



c) Language

The language to be used in the proceedings shall be one of the SADC Secretariat official languages. This decision shall apply to the Statements of Appeal, and Defence. In any further written statements and, if oral hearings take place, only the SADC Secretariat official languages shall be used. SADC Secretariat will ensure translation in all SADC Secretariat official languages.

d) Statement of Appeal

1. Within seven (07) days after the Appellant was notified on intended hearing, it shall submit its Statement of Appeal to the Procurement and Grants Appeals Review Committee including the following particulars:
 - a) the decision which is contested;
 - b) detailed statement of the facts supporting the Appeal;
 - c) the damage sustained by the bidder/applicant (if any);
 - d) remedy sought; and
 - e) whether the Appellant is requesting a hearing of witnesses or experts to support the Appeal.
2. The Appellant shall annex to its Statement of Appeal all the documents deemed relevant. It shall add a reference to the documents or other evidence submitted. When witnesses or experts are invited to support the Appeal, the name of the witnesses and their Curricula Vitae and credentials will be annexed to the Statement of Appeal.
3. Following the submission of the Statement of Appeal, the Procurement and Grants Appeals Review Committee shall estimate the cost of the hearing proceeding and request unconditional bank guarantee from the Appellant issued by a reputable bank from Botswana, for the estimated amount covering the cost of the hearing proceeding. The bank guarantee shall be valid for one hundred twenty (120) days from the date of issuance of the invitation to participate in the hearing procedures.

e) Statement of defence

1. Within seven (7) days after the Defendant's representative receives the Statement of Appeal from the Appellant, the Defendant's representative will communicate the response in writing to the Procurement and Grants Appeals Review Committee, in a form of a Statement of Defences.
2. The Statement of Defence shall reply to the particulars set forth in the Statement of Appeal and shall also indicate if any oral hearings of witnesses and experts to support their position are requested.
3. The Defendant shall annex to its Statement of Defence, the documents supporting its defence and shall add a reference to the documents or other evidence to support their position. When witnesses or experts are invited to act on their defences, the name of the witnesses, their Curricula Vitae and credentials will be annexed to the Statement of Defence.
4. The Statement of Defence shall be filed with the Procurement Function and distributed to the members of the Procurement and Grants Appeals Review Committee.

f) Evidence and hearings

1. The Procurement and Grants Appeals Review Committee shall give the parties not less than twenty three (23) days advance notice of the date, time and place to conduct the hearing procedures. The hearing shall not take place earlier than fourteen (14) days from the date of the receipt of the Statement of Defence.
2. Each party shall have to prove the facts to support its Appeal or Defence.



3. The Procurement and Grants Appeals Review Committee may, if appropriate, require the parties to produce documents, exhibits or other evidence within twenty-one (21) days from the receipt of the request.
4. Evidence of witnesses may also be presented in the form of written statements, duly signed.
5. Audio-video materials are admissible as evidence during the hearing proceedings. However, they have to be accompanied by a written description of the content.
6. The Procurement and Grants Appeals Review Committee shall determine the admissibility, relevance, materiality and weight of the evidence offered.

(f) Independent Experts

1. The Procurement and Grants Appeals Review Committee may appoint experts to report, in writing, on specific issues to be determined by the Committee. A copy of the experts' Terms of Reference, established by the Procurement and Grants Appeals Review Committee shall be communicated to the parties.
2. The parties shall give the experts any relevant information or arrange for the inspection of any relevant documents or goods they may require. Any dispute between a party and the expert regarding the relevance of the required information shall be referred to the Procurement and Grants Appeals Review Committee and the Committee will issue its decision within seven (7) days.
3. Upon receipt of the expert's report, the Procurement and Grants Appeals Review Committee shall communicate the report to the parties. They will be given the opportunity to express, in writing, their opinion of the report, within seven (7) days from the receipt of the report. A party shall be entitled to examine any documents where the expert has based his/her report.
4. At the request of either party, the expert after delivering the report may be questioned at a hearing where the parties have the opportunity to attend and interrogate the expert. At this hearing, either party may present expert witnesses to testify on the points in issue.

(g) Default

1. If the Appellant fails to communicate its Statement of Appeal in accordance with this clause (see Statement of Appeal) within seven (7) days without demonstrating sufficient causes for such a failure, the Procurement and Grants Appeals Review Committee shall order the termination of the hearing procedures.
2. If one of the parties, duly notified under these rules, fails to appear at a hearing - without showing sufficient cause for such failure - the Procurement and Grants Appeals Review Committee may proceed with the hearing procedures.
3. If one of the parties, duly invited to produce documentary evidence, fails to do so within the required period of time without showing sufficient cause for such failure, the Procurement and Grants Appeals Review Committee may render the award on the evidence available at that time.

(h) Closure of hearings

1. The Procurement and Grants Appeals Review Committee may inquire from the parties any further proof to offer, or witnesses to be heard, or submissions to make and, if there are none, it shall promptly (and in any case within twenty-one (21) days after the start of the hearings) declare the hearings closed.



2. A party who knows that any provision of, or requirement under these rules has not been fulfilled and yet proceeds with the hearing proceedings without promptly stating its objection to the non-compliance, shall be deemed to have waived its right to object.

7.3 Remedies

In its decision, the Contracting Authority or the Procurement and Grants Appeals Review Committee may order one or more of the following remedies:

- (a) correction of any breach of the Procurement Principles or Procurement Guidelines in place,
- (b) compensation for any loss or damage suffered by a successful Complainant or Appellant, such amount not to exceed the costs reasonably incurred by the Complainant or Appellant in connection with the disputed procurement (but excluding any lost profits or other special, incidental, indirect, punitive or consequential damages);
- (c) suspension of a procurement activity that is under challenge, if the Contracting Authority or the Procurement and Grants Appeals Review Committee deems it necessary to preserve the commercial opportunity pending the outcome of the challenge; and/or
- (d) cancellation of the procurement proceedings or cancellation of the contract and restarting the procurement.



Schedule 1 - Procurement and Grants Approving Authority

- (1) Depending on the estimated maximum budget of the procurement contract. (goods, works and services), the following functions shall have the authority to approve the processes on behalf of the Contracting Authority:

Contract Value	Procurement Approving Authority
Below US\$ 2,000 ¹	Controlling Officer
at US\$ 2,000 and below US\$ 10,000	Procurement Function
at US\$ 10,000 and below US\$ 250,000	Accounting Officer following advice of SADC Internal Tender Committee
at US\$ 250,000 and above	Accounting Officer following advice of SADC External Tender Committee
Grant Value	Grant Approving Authority
at US\$ 2,000 and above	Accounting Officer following advice of SADC Internal Tender Committee



¹ Non-recurrent purchases under 2,000 US\$ do not fall within the scope of these Guidelines. A per SADC Procurement and Grants Policy these are considered low value, i.e. transactions under 2,000 USD and are covered by the SADC Secretariat financial rules and regulations.

Schedule 2 - Procurement Records Keeping Matrix

Depending on the category of procurement, the procurement method used or the nature of the procurement process, the Contracting Authority shall maintain the following documents on the respective procurement files prior to those being handed to Registry upon signature of the contract:

Documents for Open Bidding procurement method

Document	Open Bidding	Restricted Bidding	Limited Bidding	Negotiated Procedure
Approval Memo and Technical Specifications/Terms of Reference/Bills of Quantities	X	X	X	X
Approved Bidding Documents	X	X	X	X
General Procurement Notice, if applicable, depending on the size of the contract	X	X	X	X
Specific Procurement Notice (Procurement Notice)	X	X		
Shortlist report		X	X	
Publication of shortlist		X		
Invitation to bid		X	X	X
Correspondence with the potential bidders	X	X	X	X
Amendments to the Bidding Documents	X	X	X	X
Approval of the Evaluation Committee	X	X	X	X
Copy of Bid Securities (originals kept with Finance)	X	X	X	X
Approved Evaluation Report (including bids)	X	X	X	X
Notification of Intent to Award Letters	X	X	X	X
Letter of Award	X	X	X	X
Signed Contract	X	X	X	X
Copy of Performance Security (originals kept with Finance)	X	X	X	X
Copy of Advance Bank Guarantee (originals kept with Finance)	X	X	X	X
Approval to amend the contract	X	X	X	X
Addenda to contract	X	X	X	X
Approval of contract deliverables	X	X	X	X
Invoices and payments	X	X	X	X

Schedule 3 - Procurement and Grants Thresholds for the application of Procurement and Grant Methods

The Depending on the estimated value and the category of the procurement and grant contract, the following procurement and grant thresholds shall apply when launching a procurement or grant process, expressed in United States Dollar (USD):

Category of Procurement Procurement and Grant methods	Services	Goods	Works	Grants
Open Bidding	N/A	at 150,000 and above	at 500,000 and above	N/A
Restricted Bidding	at 250,000 and above	N/A	N/A	N/A
Limited Bidding	at 50,000 and below 250,000	at 100,000 and below 150,000	at 200,000 and below 500,000	N/A
Negotiated Procedure	at 2,000 and below 50,000	at 2,000 and below 100,000	at 2,000 and below 200,000	N/A
Single Source	at 2,000 and above	at 2,000 and above	at 2,000 above	N/A
Individual Consultants	at 2,000 and above	N/A	N/A	N/A
(Specific) Framework Contract	at 20,000 and below 500,000	at 2,000 and below 300,000	at 2,000 and below 1,000,000	N/A
Open Calls for Proposals	N/A	N/A	N/A	at 2,000 and above
Restricted Calls for Proposals	N/A	N/A	N/A	at 2,000 and above
Direct Award of Grants	N/A	N/A	N/A	at 2,000 and above

Schedule 4 – Publication Thresholds (international, regional, local)

Amounts are expressed in United States Dollar (USD)

Publication Category of procurement	Local	Regional	International
Restricted bid for services	at 350,000 and below 500,000	at 500,000 and below 1,000,000	at 1,000,000 and above
Open bid for goods	at 150,000 and below 250,000	at 250,000 and below 1,000,000	at 1,000,000 and above
Open bid for works	at 500,000 and below 1,000,000	at 1,000,000 and below 5,000,000	at 5,000,000 and above
Negotiated Procedure with Publication	at 2,000 and below 50,000,00		
Calls for Proposals	at 2,000 and below 1,000,000	at 100,000 and below 2,000,000	at 2,000,000 and above



Annex 1: Guidelines for Publication and Visibility

Publishing tenders and calls for proposals

1. These guidelines are meant for the contracting authority managing SADC funded projects. They include practical information on publication procedures for procurement and grants procedures.

2. Rules:

- (a) The SADC Procurement and Grants Guidelines describe the rules to be complied with in publishing tenders and call for proposals: paragraph 3.4.1 for services, paragraph 4.4.1 for goods, paragraph 5.4.1 for works and 6.3.2.1 for grants.
- (b) The publication rules depend on the type of procedure and the document to be published.
- (c) When a document is published in various media, publication must take place simultaneously and the content of the document must be identical in the various media.

3. Publication rules for procurement:

- (a) International tender must be published first through General Procurement Notice and followed by Specific Procurement Notice on the following media:
 - (i) SADC Secretariat website.
 - (ii) UN Development business.
 - (iii) DgMarket.
- (b) Regional tender must be published through Specific Procurement Notice on the following media:
 - (i) SADC Secretariat website.
 - (ii) UN Development business
- (c) Local tender must be published through Specific Procurement Notice on the following media:
 - (i) SADC Secretariat website.
 - (ii) At least one local newspaper.
- (d) Contracting Authority may however decide to publish regionally or internationally. Geographical area of publication does not have implications on the eligibility criteria, those of Economic Operators or Experts.
- (e) The following documents require publication in the SADC Secretariat website for international, regional and local:
 - (i) Bidding documents (only for open tenders and negotiated procedure with publication).
 - (ii) Clarifications requested and answer to clarifications (only for open tenders and negotiated procedure with publication).
 - (iii) Minutes of information session (only for open tenders and negotiated procedure with publication)
 - (iv) Addenda to bidding documents (only for open tenders and negotiated procedure with publication).
 - (v) Long list and short list (only for restricted tenders).
 - (vi) Award notice (compulsory for contracts with maximum budget of US\$ 250,000 or more).
 - (vii) Cancellation notice (compulsory for contracts with maximum budget of US\$ 250,000 or more).



4. Publication rules for Grants

- (a) All calls for proposals (whether open or restricted) will be published on the SADC Secretariat webpage.
- (b) Calls for proposals with budget equal to or higher than 2,000,000 USD will be published at UN Development business and DG Market.
- (c) The following documents require publication on the SADC Secretariat website for both open and restricted calls for proposals:
 - (i) Guidelines for applicants.
 - (ii) Clarifications requested and answer to clarifications (for open calls, while for restricted calls concept note stage only).
 - (iii) Minutes of information session.
 - (iv) Short list for restricted call for proposals (i.e. those that are invited to submit full applications).
 - (v) List of applicants awarded.
 - (vi) Reserve list.

5. Forms

All forms to be used for publication can be found in Annex 5 to these Guidelines, “templates”.



Annex 2: Guidelines for the Recruitment of Individual Consultants

1. The SADC Secretariat may decide to hire individual consultants for specific tasks. Individual consultants are contracted on assignments where:
 - a) teams of experts are not required,
 - b) there is no in-house competence and experience to carry out the assignment,
 - c) the experience and qualifications of the individual are the main requirement.
 - d) there is no sufficient in-house expertise
2. Individual Consultants are not allowed to subcontract to any other Economic Operators in carrying out the assignments.
3. The Contracting Authority shall not misuse this method of selection for an assignment normally carried out through an employment contract. Similarly, the method shall not be used for artificially splitting a consulting service assignment.
4. The use of this procurement method is not limited by the estimated value of the contract. However, the duration of the contract awarded through this method shall not exceed two (2) years and no Individual Consultant shall be awarded more than two (2) successive individual consultant contracts for the same Consulting Services.
5. The evaluation criteria applicable to Individual Consultants shall be based on scoring methodology taking into account both quality and costs, as defined in these Guidelines under sections 3.4.6.4., 3.4.6.5 and 3.4.6.6 (not applicable to below 7.c. – direct selection of individual consultant)
6. Only natural persons/individuals are eligible to submit application under this procurement method.
7. The selection of individual consultants shall have the following methods of application:

a. Open Competitive Selection of Individual Consultants

Advertisement through Requests for Expressions of Interests (REoIs) is encouraged, particularly when the Contracting Authority does not have knowledge of experienced and qualified individuals, or of their availability, the services are complex, there is potential benefit from wider advertising, or advertising is mandatory under national law.

REoIs shall include complete TOR. Individual Consultants are selected from those that expressed interest in response to a REoI as per section 8 below.

b. Limited Competitive Selection of Individual Consultants

When the Contracting Authority has knowledge of experienced and qualified individuals and their availability, instead of issuing a REoI, it may invite those individual Consultants that it deems qualified to provide the required Consulting Services. The complete TOR shall be sent with the invitation.

Individual Consultants shall be selected from those that expressed interest in response to the invitation.

The method shall be used with prior approval of the Accounting Officer or a delegated authority, as per thresholds defined in these Guidelines.

c. Direct Selection of Individual Consultant

Individual Consultants may be selected on direct selection basis, with due justifications, under one of the following circumstances:

- i. tasks that are a continuation of previous work that the Individual Consultant has carried out after being selected competitively, subject to provisions of point 4 of this Annex;
- ii. assignments with a total expected duration of less than six months;
- iii. situations of unforeseeable urgency; or
- iv. when an Individual Consultant has relevant experience and qualifications of exceptional worth to the assignment.

The method shall be used with prior approval of the Accounting Officer as per thresholds defined in these Guidelines.

8. The Selection of Individual Consultants procurement methods under section 7.(a) and (b) requires the following processes (7.(c) is not advertised and is documented in a form of negotiation report):

a. Preparation of Terms of Reference: The Requisition Function has the responsibility to prepare the Terms of Reference, using the standard template, the evaluation criteria and the estimated budget of the contract.

b. Preparation of the Request for Expression of Interest and Application Form: Upon the review of the Terms of Reference, the evaluation criteria and the estimated budget received from Requisition Function, the Procurement Function shall prepare the Expression of Interest, Application Form and Standard Contract for the approval of the procurement authority as stipulated in these Regulations.

Once approved by the Contracting Authority, the Procurement Function shall publish the Specific Procurement Notice on the SADC Secretariat website, which will include Request for Expression of Interest, containing the Application Form, the Terms of Reference for the assignment, the template for Curriculum Vitae, the standard Contract for Individual Consultant and any other forms and documents to be used by interested Individual Consultants for the preparation of their submission. SADC Secretariat may also publish Specific Procurement Notices on any other international procurement websites, e.g. United Nations Development Business, DG Market, DevelopmentAid, Assortis, etc.

c. Communication with interested Individual Consultants: Interested Individual Consultants are allowed to request clarifications up to ten (10) days prior to the deadline for submission of applications. All communications shall be in writing, and the questions received and answers given shall be posted on the SADC Secretariat website no later than seven (7) days prior to the deadline for Submission of the applications.

d. Submission of applications: The interested Individual Consultants shall be given the choice to send the application by courier or e-mail. The time allowed for submitting their application shall not be less than twenty-one (21) days from the date of publication of the Request for Expression of Interest. To be considered for evaluation, the application shall be submitted in the requested format, before the deadline and be accompanied by the documents indicated in the Expression of Interest.

e. Evaluation Committee: The Evaluation Committee shall be appointed and have the responsibilities as per section 2.11 of these Guidelines.

f. Receipt and registration of applications: On receipt of the applications, the Procurement Function shall register them stating the date and time of reception, issuing a receipt for

the applications that have been hand-delivered. The standard template shall be used for such receipts that can be found in Annex 5 of these Guidelines.

g. Evaluation of applications:

Part 1: Preparatory phase: The first meeting of the Evaluation Committee shall be held preferably immediately after the deadline for submission. The Chairperson with the help of the Secretary of the Evaluation Committee shall introduce the purpose of the evaluation and explain the procedures to be followed, including the evaluation grid, award criteria and weightings specified in the Request for Expression of Interest. The Secretary will hand out the declaration of Impartiality and Confidentiality and ask all members of the Evaluation Committee to sign it. At the end of this phase, the Secretary of the Evaluation Committee shall provide evaluators with copies of all applications received, together with the Terms of Reference and the Request for Expression of Interest.

Part 2: Compliance with formal submission requirements: The Evaluation Committee shall decide whether or not the application complies with the formal submission requirements (i.e. deadline for submission, format of the Curriculum Vitae, completeness of the submission as per the Request for Expression of Interest and the application form requirements). At this stage it shall be also checked whether the Individual Consultant complies with the requirements concerning the eligibility criteria stated in the Request for Expression of Interest. Non-compliant applications shall not be further considered. The deliberation of the Evaluation Committee at this stage shall be recorded in the Evaluation Report using the standard template.

Part 3: Technical Evaluation:

- (1) At this stage, the Evaluation Committee examines only the submissions that passed the formal compliance requirements.
- (2) The applicants must provide documentary evidence. These include copies of the relevant certificates and references of their professional experience for all assignments/working experience listed in the CV.
- (3) The Evaluation Committee shall only take into consideration experience backed by relevant certificates and documentary evidence supporting the experience. In case documentary evidence is not matching what is stated in the CV, relevant qualification and/or experience will not be considered by the Evaluation Committee.
- (4) When evaluating the application, each Evaluation Committee member awards each application a score out of a maximum 100 points in accordance with the technical evaluation grid (setting out the technical criteria, sub-criteria and weightings) as published in the Request for Proposal. Under no circumstances shall the Evaluation Committee or its members change the technical evaluation grid published in the Request for Expression of Interest.
- (5) Each voting member of the Evaluation Committee completes an evaluation grid (using the standard template) to record his/her assessment in order to establish a general appreciation of strengths and weaknesses of each application.
- (6) On completion of the technical evaluation, the points awarded by each member are compared at the Evaluation Committee's session. Besides the numerical score, each member shall explain the reasons for his/her choice and defend his/her scores before the Evaluation Committee.



- (7) The Evaluation Committee may request clarifications from the Applicants. The Applicants shall be allowed reasonable time to respond during working days/hours.
- (8) The Evaluation Committee may decide to interview the experts from the technically compliant bids. The interviews should have been foreseen in the bidding documents and should be conducted fairly and giving sufficient notice to the bidders.
- (9) The Evaluation Committee discusses each application and every member awards it a final score. The Evaluation Committee members may modify their individual evaluation grids as a result of the general discussion on the merits of each offer. Once discussed, each Evaluation Committee member finalizes his/her evaluation grid of each evaluated application and signs it before handing it to the Secretary of the Evaluation Committee. The Secretary of the Evaluation Committee shall then compile a summary of the comments of the Committee members as part of the Evaluation Report.
- (10) In the case of major discrepancies, a full justification has to be provided by the dissenting members during a meeting of the Evaluation Committee.
- (11) The Secretary of the Evaluation Committee calculates the aggregate final technical score, which is the arithmetical average of the individual final scores, and communicates the result to the Evaluation Committee.
- (12) Applications not receiving the minimum seventy (70) points required as a final technical score, shall be disqualified.
- (13) From those passing 70 points threshold, the highest ranking technical offer is awarded 100 points. The others receive points calculated using the following formula: Technical score = (final score of the technical offer in question/final score of the best technical offer) x100.

Part 4: Financial Evaluation:

- (1) Only upon completion of the technical evaluation, the financial offers of the technically compliant applicants shall be opened.
- (2) The envelopes containing financial bids of bidders that did not qualify during the formal compliance checks or the technical evaluation shall not be opened and shall be returned to the applicants.
- (3) The chairperson and the secretary shall sign all the originals of the financial bids.
- (4) The technical scores cannot be changed once the financial bids are open.
- (5) The Evaluation Committee shall ensure that the financial bid satisfies all formal requirements. The Evaluation Committee shall also check that the financial bids do not contain arithmetical errors. Any obvious arithmetical error shall be corrected without penalty to the applicant, unless it results in the price of the bid exceeding maximum available budget.
- (6) The Evaluation Committee may request clarifications from the applicants giving them reasonable deadline.



- (7) The total contract value comprises typically of fees only, but may include incidental expenditure, as specified in the bidding documents. The total value is compared with the maximum budget available.
- (8) Bidders exceeding the maximum budget available shall be eliminated.
- (9) Afterwards, the Evaluation Committee shall proceed with the financial comparisons of the fees between the different financial offers. Both the provisions for incidental expenditure and lump sums shall be excluded from the comparison of the financial offers as specified in the RfEoI.
- (10) The offer with the lowest total fees shall receive 100 points. The others are awarded points by means of the following formula: Financial score = (lowest fees/fees of the tender being considered) x 100.

Part 5: Application of Award Criteria – best-value-for-money:

- (1) Individual Consultants are selected on the basis of best value for money which is established by weighing technical quality against price.
- (2) The ratio has to be established in the RfEoI and cannot be changed thereafter. The value of the technical offer cannot be below 70 points nor can it exceed 90 points, thus the maximum weighing for the financial bid would be 30 points while minimum would be 10 points. For advisory contracts the usual weighing should be 80/20.
- (3) In case of example of 80/20 weighting, the best value for money shall be calculated by multiplying the scores awarded to the technical bids by 0.8 and the scores awarded to the financial bids by 0.2. The resulting, weighted technical and financial scores are then added together to establish the tender with the highest overall score.
- (4) The Evaluation Committee shall recommend awarding the contract to the applicant achieving the highest overall score.
- (5) The secretary of the Evaluation Committee shall prepare an evaluation report containing final recommendation on the evaluation process and submit to the Evaluation Committee for consideration and signature by all the members.

h. Notification of award of the contract:

- (1) After the Evaluation Report is reviewed by the Tender Committee and approved by the Accounting Officer, the Procurement Function shall notify the outcome of the evaluation to all applicants.
- (2) The notification sent to the unsuccessful applicants shall provide information on the score that his/her application received in comparison to the highest ranking one, or the reason for having been disqualified, as the case may be. The standard template shall be used for these letters (see annex 5 of these Guidelines).
- (3) The notification sent to successful applicant shall provide - in addition to the information on the final technical score that his/her application received - the draft contract the Individual Consultant is expected to sign to start his/her assignment. The successful applicant shall be requested to confirm in writing, within seven (7) days from the notification of award, his/her interest and availability for the assignment, the acceptance of the conditions of the contract and the date when he/she will be able to commence the assignment. Unless otherwise agreed by the

two parties, the starting day of the assignment shall be no less than thirty (30) days from the notification of award of the contract.

- (4) If the recommended applicant fails to respond to the notification, or is no longer interested or available for the assignment, or does not accept the terms and conditions of the contract including the commencement day of the assignment, the application shall be disqualified and the procedures for award shall be repeated with the other qualified applicants in the descending order of their final technical score, until a contract is secured.
- (5) Unsuccessful applicants can appeal the decision of the Contracting Authority following the procedures described in Chapter 7 of these Guidelines.

i. Award of the contract:

- (1) The Procurement Function is responsible for the preparation of contract, based on the standard templates and the information stated in the Evaluation Report.
- (2) The contract is subject to financial and legal regulatory clearances prior to its signature by the Accounting Officer or a delegated authority to sign the contracts on behalf of the Contracting Authority.
- (3) The contract shall be issued in two (2) originals and will be initialled on each page.
- (4) The awarded Individual Consultant shall be given fifteen (15) days to accept and sign the contract and return it to the Contracting Authority. Once received, the awarded Individual Consultant will sign both originals and, at its own cost, shall arrange for a secured return of one (1) original to the Contracting Authority prior to the fifteen (15) days deadline. If it fails to do so, the Contracting Authority may consider to cancel the award of the contract to recommended Individual Consultant, and start the same procedures with the next highest evaluated applicant in order of ranking until the contract is awarded.

j. Publication of the award of contract: After the signature of the contract by both parties, the Procurement Function shall publish on the SADC Secretariat website, within five (5) days from the signature of the contract, the notification of award of the contract, using the standard template. Publication is required for open procedure only as per 7.(a) of this annex.

k. Cancellation of the procedure:

- (1) Contracting Authority shall not be bound to accept any proposal submitted by an applicant in response to the Request for Expression of Interest.
- (2) At any time, and without being liable for any compensation, Contracting Authority can cancel the procurement procedure for selection of an Individual Consultant:
 - a. if no application is formal or technically compliant;
 - b. if no application, formal and technically compliant, falls within the budget limit for the contract.
 - c. if the recommended applicant fails to accept the conditions of contract (including the commencement date of the assignment) and there is no other applicant with a formal and technically compliant proposal within the budget limit set for the contract, and



- d. if the technical and economic conditions or the needs of the Contracting Authority have changed from the moment the procurement process was launched, and then, the services requested to the Individual Consultant are no longer needed by the Institution.
- (3) The decision to cancel the procedure shall be taken by the Accounting Officer following the advice provided by the Procurement Function and Ex-Ante Function, following which it will be published on the SADC Secretariat website.



Annex 3: Guidelines on Procurement and Grants Roles and Responsibilities

Part 1: Procurement and Grants Responsibilities

1. Roles and responsibilities

Within the limits set by these Guidelines the overall responsibility for all the Procurement and Grants of SADC Secretariat shall rest with the Accounting Officer, while responsibility of proper implementation of the provisions of SADC Procurement and Grants Policy and Guidelines shall be entrusted to the Procurement and Grants Function. Hence, all procurement and grants activities of the Institution shall be coordinated and conducted by the Procurement and Grants Function.

In the case of decentralised structures of the SADC Secretariat or in the case of independent projects or programmes funded by the Institution, with the prior approval of the Executive Secretary, the role and responsibilities of the SADC Secretariat Procurement and Grants Function may be delegated to decentralized Procurement Functions or to external contractors to provide Procurement and/or Grant Agent Services.

Prior to delegating the procurement roles and responsibilities to an external Contracting Authority, SADC Secretariat shall sign memorandum of understating defining the extent or responsibilities and the exact role and procedures which shall be followed by such entities. However, irrespective of role and responsibilities delegated to the external Procuring Entity Contracting Authority, SADC Secretariat shall be ultimately held responsible for the outcome or the legality of the procurement/grant processes and for the implementation and administration of contracts financed by the Institution.

2. General responsibilities in implementation of the procurement and grants activities

Pursuant to provisions under the Treaty, as amended, in particular the responsibilities of the SADC Secretariat (Article 14), Executive Secretary and Deputy Executive Secretary (ies) (Article 15) and Financial Provisions (Articles 28 to 30) and other instruments established under the provisions of the Treaty including the SADC Procurement and Grants Policy, the following general responsibilities shall apply on procurement:

(a) Council: shall also be responsible for:

- (i) approval of the SADC Procurement and Grants Policy (the Policy) and its amendments
- (ii) receive and consider reports on compliance with the Policy.

(b) Executive Secretary/Accounting Officer: Has the overall responsibility and accountability for proper implementation of the SADC Procurement and Grants Policy (the Policy) and SADC Procurement and Grants Guidelines (the Guidelines). He/She is exercising his/her role in procurement by:

- (a) performing the attribution as Accounting Officer;
- (b) proposing to the Council amendments to the Policy and its implementation structure;
- (c) establishing a schedule of delegation of authority to commit resources;
- (d) establishing decentralisation of Procurement and Grant Function to implementing partners;
- (e) appointing and revoking members of the SADC Tender Committees;
- (f) approving procurement regulations and procedures that are implementing SADC Procurement and Grants Policy, including SADC Procurement and Grants Guidelines and their annexes, being templates for, but not limited to, bidding documents, contracts, procurement notices, evaluation reports, etc) and other similar procurement operational manuals, as well their subsequent modifications; and



- (g) approving the use of Single Source, Limited Bidding and Negotiated Procedure (unless the last two fall within the thresholds of these Guidelines, see “h” below), and approves any proposal for derogation from the standard procurement methods and standardized procurement documents;
 - (h) approving the use of any exceptional procedure below or above the thresholds established in the procurement approving authority matrix attached as Schedule 1 of these Guidelines;
 - (i) approving procurement method for direct award of grants prior to formal engagement of Grant Beneficiary on behalf of the Contracting Authority.
- (c) **Deputy Executive Secretary(ies):** Assisting the Executive Secretary in the development and implementation of organisational policies. The Deputy Executive Secretary (Corporate Affairs) shall oversee the provision of corporate procurement and grant services by discharging the following responsibilities:
- (i) approving the overall corporate procurement plan and its implementation with the advice of Corporate Services Committee; Ensure that the overall Procurement Plan is developed in accordance with the procedures set in the para 2.19 of Chapter 2 of these Guidelines and that the document is aligned to the SADC Secretariat budget.
 - (ii) overseeing management of risks in procurement,
 - (iii) monitoring and continuous assessment of the procurement processes; and
 - (iv) making recommendations to the Executive Secretary on strategic procurement matters such as structural and policy issues.
- (d) **Other functions:** The SADC Secretariat applies instruments governing financial provisions which are established under the Treaty and approved by Council such as Financial Provisions (Article 28 to 30), Procurement and Grants Policy, Internal Audit Charter, etc. Roles established under the SADC Secretariat organisational structure with responsibilities to facilitate procurement operations are as follows:
- (i) **Budget and Finance Function:** their responsibilities in the area of procurement are determined by the provisions of the Financial Regulations and Procedures, and for purposes of procurement these are aimed at facilitating adherence to principles of sound finance management of economy, efficiency and effectiveness. Specifically, Finance Officer shall verify compliance with the relevant provisions in the financial regulations through the verification of the contractual instrument (e.g: contract, purchase order, etc) committing funds for:
 - (a) existence and allocation of budgetary appropriations;
 - (b) compliance with the decision of award taken by the relevant authority as stipulated by these Guidelines; and
 - (c) provisions of the contract in relation to financial matters being adequately drafted.
 - (ii) **Legal Affairs Function:** their responsibilities in the area of procurement and grants are determined by the mandate of their function, and for purposes of procurement and grants these are aimed at facilitating adherence to legal and contractual requirements aimed at safeguarding interests of the SADC Secretariat.
 - (iii) **Controlling Officer:** their responsibilities in the area of procurement and grants are determined by the mandate of their function, and for purposes of procurement and grants these are aimed at facilitating adherence to budget management regulations. In procurement, a Controlling Officer’s specific responsibilities are set out in the Procurement and Grants Guidelines under the Requisition Function.
 - (iv) **Internal Audit Function:** their responsibilities in the area of procurement and grants are determined by the provisions of the Internal Audit Charter, and these do not permit them to engage in a line operational role.

3. *Specific responsibilities in implementation of the procurement and grant activities*

- (1) **Requisition Function.** The Requisition Function is held by any SADC Secretariat Controlling Officer, and generally they shall represent a directorate, section, department or unit being the direct or indirect beneficiary of the services, goods, works or grants procured by the Institution through procurement processes. The holder of the Requisition Function is to be defined in the SADC Secretariat Financial Regulations and re-confirmed during the process of preparation of the annual budgets and procurement plans. In relation to the procurement and grants processes, the Requisition Function is responsible, but not limited, to the following:
- a) identifying the needs of the Procuring Entity, in the area of their operations;
 - b) estimating the cost for procuring their requirements;
 - c) securing the funds for procurement of the needs through budgetary allocations;
 - d) preparation of procurement plans;
 - e) provision of support to the Procurement Function in preparation of the procurement strategy of the Institution;
 - f) preparation of Technical Specifications and Terms of Reference,
 - g) preparation of guidelines for applicants
 - h) preparation of qualification, selection, evaluation and award criteria;
 - i) provision of assistance to the Procurement Function in drafting the technical parts of the Bidding Documents, Request for Proposals, Request for Expression of Interest, Request for Quotations Request for Offers or any other similar solicitation documents.
 - j) provision of needed technical input for response to bidders or applicants request for clarifications;
 - k) provision of technical support to the Evaluation Committees by appointing the members;
 - l) providing support to the Negotiation Committees in negotiation of contracts by appointing members for the Negotiation Committee.
 - m) the day to day management of the contracts in their capacity of Task Managers;
 - n) monitoring and assessing the performance of the Contractors/Grant beneficiaries;
 - o) accepting the deliverables and certifying their compliance with the contractual requirements;
 - p) endorsing the request for payments as specified in the contracts;
 - q) maintaining the records of the contractual deliverables (including any approval or rejection of such deliverables); and
 - r) maintaining the record of the grant implementation activities.
- (2) **Procurement and Grant Function.** The Procurement and Grant Function has the overall responsibility of coordination and implementation of the procurement and call for proposal processes of the SADC Secretariat. With the exceptions indicated in the procurement rules and procedures as well as in the financial regulations of the Institution, it is the only unit within the SADC Secretariat vested with the attribution to procure services, goods and works as well as of launching call for proposals on behalf of the Institution, unless those procurements do not fall within the scope of the Policy and Guidelines. More specifically, the Procurement and Grant Function responsibilities shall include, but not limited to, the following:

- a) drafts and revises SADC Procurement and Grants Policy and Guidelines;
- b) drafts and revises the templates/Annex 5 to the Guidelines;
- c) coordinates the procurement planning and prepares the Overall Procurement Plan;
- d) reports on procurement/grant performance and implementation of the overall procurement plan;
- e) prepares and revises the procurement strategy of the Contracting Authority;
- f) reviews the Technical Specifications and Terms of Reference for compliance with the procurement procedures;
- g) reviews the Guidelines for Applicants for compliance with grant procedures;
- h) reviews the eligibility, qualification, evaluation and award criteria for compliance with the procurement and grants procedures;
- i) publicises the procurement processes on behalf of the Contracting Authority (i.e.: General Procurement Notice, Specific Procurement Notice, Shortlist, Addenda and Clarifications to prequalification and bidding documents, Contract Award Notice, Cancellation Notice, etc.);
- j) advertises calls for proposals;
- k) prepares the Bidding Documents, Request for Quotations/proposals, Request for Negotiation, Request for Expression of Interest and any other similar solicitation documents;
- l) develops application bid forms;
- m) coordinates the communications with applicants and disseminates the clarification information;
- n) provides logistic support to the Evaluation Committees;
- o) acts as the secretariat and provide the necessary logistical support to the SADC Tender Committees;
- p) prepares the contracts and the purchase orders,
- q) notifies bidders and applicants on the outcome of the evaluation processes;
- r) assists the Contracting Authority in the appeal processes;
- s) assists the requisition function in the administration of contracts;
- t) maintains the records of procurement processes;
- u) approves the evaluation reports for contract as per the limits set in the procurement approving authority matrix attached as Schedule 1 of these Guidelines.
- v) ensure that all the contracts sent for signature to the Accounting Officer have been cleared by the Legal Affairs Function and Budget and Finance Function and certifies they are awarded and drafted in compliance with the SADC Secretariat Procurement and Grants Policy and Guidelines.
- w) ensure that all purchase orders sent to Budget and Finance Function for approval are in compliance with the SADC Secretariat Procurement and Grants Policy and Guidelines.
- x) Recommends any proposal for derogation from the standard procurement methods and standardized procurement documents prior to the approval by the Executive Secretary;
- y) Ensure that the services, goods and works to be procured by the Institution are indispensable for the Procuring Entity and budgetary provision have been made to their acquisition.

- (3) **SADC Tender Committee:** These are permanent bodies composed of professionals appointed by the Executive Secretary, with the role of advising the Contracting Authority and the Executive



Secretary on all the procurement processes. The SADC Tender Committee(s) shall consist of an odd number of members with equal voting rights, with no subordination relationships among themselves within the structure of the Institution and with guaranteed absence of conflict of interest. The Procurement Function will provide the secretarial support to the SADC Tender Committee(s).

The SADC Secretariat shall have two Tender Committees, namely the Internal Tender Committee and the External Tender Committee .

The Internal Tender Committee shall be reviewing and advising on procurements budgeted at US\$10,000 and below US\$250,000.

The External Tender Committee shall be reviewing and advising on procurements budgeted at US\$250,000 and above.

The roles of a SADC Tender Committee in procurement processes are to:

- a) Review and advise Accounting Officer on the procurement processes;
- b) If the attribution is delegated by the Executive Secretary, approve the use of the Single Source, Negotiated Procedure and Limited Bidding as procurement methods, unless Negotiated Procedure and Limited Bidding fall within the threshold as stipulated in Schedule 3 to these Guidelines for which approval is not required;
- c) Review and make recommendations to the Accounting Officer on the evaluation and negotiations reports;
- d) Make recommendation to the Accounting Officer/Executive Secretary the debarment of an economic operator according to provision of chapter seven of these Guidelines; and
- e) Recommend the award of the contracts prior to approval by the Accounting Officer/Executive Secretary or a delegated authority.

- (4) **Procurement and Grants Appeals Review Committee:** The SADC Procurement Appeals Review Committee shall have the role and responsibility in handling the procurement and appeals procedures in accordance with the Chapter 7 of these Guidelines. The SADC Procurement Appeals Review Committee shall consist in an odd number of members with equal voting rights, and will not have subordination relationships among themselves within the structure of the Institution and will be free of conflict of interest. The SADC Procurement Appeals Committee shall be supported by an officer from the Procurement and Legal Function designated by the Accounting Officer/Executive Secretary.

The Members of the Committee shall be nationals of SADC Member States identified from the Troika Institutional Structure, with the Chairperson coming from the Member State chairing SADC.

The members of the Appeals Review Committee will be:

- The External Tender Committee of SADC Secretariat shall be the Procurement and Grants Appeals Review Committee to make recommendation to the Accounting Officer on bidders/applicants complaints against tenders/grants proceedings by the Internal Tender Committee.
- The Finance Sub-committee sitting as Procurement and Grants Appeals Review Committee in consultation with the Accounting Officer shall adjudicate appeals for all procurement handled by the External Tender Committee.

- (5) **Ex-Ante Function:**

1. Quality assurance is done through compliance review of procurement processes and quality control of all procurement related documentation by designated personnel.



2. The Ex-Ante function is expected to enhance the effectiveness and efficiency of the management of procurement by assuring quality, guaranteeing consistency and compliance, as well as ensuring value for money.
3. In order to ensure proper segregation of duties, independent decision-making and impartiality, Ex-Ante function reports directly to the Accounting Officer.
4. Ex-Ante quality assurance modality implies that all documents require verification prior to proceeding with the subsequent step in the process of procurement.
5. The role of the Ex-Ante Function shall be to:
 - a) Review and make recommendations on the procurement processes to the Accounting Officer;
 - b) Ensure that the appropriate procurement method is used for the procurement of the services, goods and works so as to obtain maximum value for the Procuring Entity;
 - c) Ensure that the principles of procurement as stated in the SADC Secretariat Procurement Policy and in para 2.2 of Chapter 2 of these Guidelines are applied in all solicitation documents and evaluation/assessment/ negotiation processes;
 - d) Verify on behalf of the Contracting Authority, the solicitation documents prepared by the Procurement Function, prior to their release to bidders/applicants, as well as any subsequent modifications of these documents that includes addenda and clarifications. All of subject documents will be initialled by Ex-Ante prior to their use/release;
 - e) Verify cancellation of the procurement procedure as well as possible relaunch. Such decisions will be documented in a form of memo, signed by both Procurement Unit and Ex-Ante Unit;
 - f) Recommend any proposal for derogation from the standard procurement methods and standardized procurement documents for approval by the Accounting Officer or a delegated authority;
 - g) Participate in Tender Evaluations as observer and provide advice if required;
 - h) Receive, review and advise the Accounting Officer on all submissions made by the Tender Committees;
 - i) Ensure that the contracts to be executed by the Accounting Officer are a true reflection of the evaluation/negotiation processes and the award decision; and
 - j) Review and submit contracts and/or addenda to contracts to Legal Function, who submits them for signing by the Accounting Officer or those delegated the authority.

Part 2: The SADC Tender Committee

1. Composition

The SADC Internal Tender Committee members are appointed by the Executive Secretary for the minimum period of one (1) year. The Chairperson of the SADC Internal Tender Committee shall be appointed by the Executive Secretary and shall hold the function for a maximum of one year, after which it is rotated amongst the members of the Committee.

The SADC External Tender Committee shall have a minimum three (3) and maximum five (5) members comprised of senior procurement officials from the Troika Member States and two

officials from the SADC Secretariat namely the head of Finance or his/her designate and one officer appointed by the Accounting Officer / Executive Secretary.

This entails that the SADC Tender Committee(s) shall be responsible for review and advise on all recommendations for award made by the Evaluation Committees within the threshold as stipulated in Schedule 3 of these Guidelines, after which it makes its recommendations to the Accounting Officer.

The SADC Internal Tender Committee shall have a minimum of three (3) and a maximum of five (5) members, chosen among the directors of the SADC Secretariat with no subordination relationships among themselves with the structure of the institution.

The Executive Secretary shall appoint for each member of the Internal Tender Committee an alternative member selected from senior officer(s) in the respective directorate/unit to replace the substantive member in circumstances where his/her participation in the Tender Committee(s) meetings is not possible.

To have a quorum, the SADC Internal Tender Committee(s) shall have at least three (3) member from the technical directorates (such as: Directorate of Policy Planning & Resource Mobilisation, Directorate of Budget & Finance and Directorate of Human Resources and Administration) participating in the SADC Internal Tender Committee(s) meetings.

The SADC Tender Committee(s) shall be supported by a Procurement Function which will act as a permanent secretariat of the SADC Tender Committees. The Secretariat of the SADC Tender Committee(s) is in charge with distributing the documents to be reviewed, logistic of the meetings, recording the deliberation and decision, securing the signatures of the members on the Tender Committee(s) decisions, and maintaining the record and archives of the SADC Tender Committees.

No member of the SADC Tender Committee(s) shall be involved in the procurement processes other than in the capacity of member of the SADC Tender Committee(s).

When a member of the Tender Committee(s) is also requisitioner for the services, goods and works for which the Tender Committee is requested to review and advise, the respective member shall not be allowed to participated in the Tender Committee meeting and be replaced for that specific procurement process by an alternate from a different technical department which is not under the coordination of the requisitioner.

No member of the SADC Tender Committee(s) shall be part of the internal Institutional structures that audits the procurement processes.

All members of the SADC Tender Committee(s) have equal voting rights and the decision shall be made by consensus. If a SADC Tender Committee cannot reach a decision by consensus, the Committee decision shall be taken by majority of vote. Such incidents shall be dully recorded in the minutes of the SADC Tender Committee meetings.



All members of the SADC Tender Committee(s) shall be free of conflict of interest as defined in para 2.2 of Chapter 2 of these Guidelines. The members shall sign a Declaration of Impartiality and Confidentiality using the standard template.

When a member becomes aware that he/she is in a situation of a potential conflict of interest, he/she shall notify the SADC Tender Committee by giving details of the particulars that created the potential conflict of interest and excuse him/herself from further participating in the SADC Tender Committee(s) meetings or decisions in relation with that particular bidding process. Such circumstances shall be recorded in the minutes of the SADC Tender Committee(s) meetings.

3. *Communication and records of the SADC Tender Committee*

All correspondence, meetings and decisions of the SADC Tender Committee shall be recorded in writing by the Secretary to the SADC Tender Committee and shall be signed by all members of the SADC Tender Committee.

The SADC Tender Committee shall communicate their request for clarification, objections, rejections or any other advice/recommendation only to the Procurement Function who shall further distribute it to the relevant party.

4. *Decision Timelines*

The SADC Tender Committee review and recommendation shall be taken in the shortest time possible from the receipt of the document to be reviewed.

The maximum time allowed to review submissions shall not exceed fourteen (14) days.

