Directive Number 197/2026

The Addis Abba City Administration Public Procurement Implementation Directive

WHEREAS, it is important to strengthen the government's procurement regulation system and secure the potential high revenue that the government could get, make it fair, based on competition, and could generate reasonable revenue for the money spent;

WHEREAS, it is necessary to make the government's procurement transparent, fair, and free from corruption, ensure the a procurement system which is supported with modern technology and address the good governance problem which is reported in the sector by implementing electronic operational system, ensure that it considers environmental protection and making the community beneficial, as well as, make it to align with the international procurement systems; thus, it required to prepare the procurement implementation Directive;

NOW, THEREFORE, the Addis Ababa City Administration, Bureau of Finance, has issued this Directive as per Sub Article (2) and (3) of Article 81 of the Addis Ababa City Administration Government Procurement and Property Management Proclamation No. 92/2018.

Chapter One
General Provisions

1. Short Title

This Directive may be cited as **"The Addis Abba City Administration Public Procurement Implementation Directive No. 197/2026".**

2. Definition

Unless the context of the word or phrase requires otherwise, in this Directive:

1) **"Technical Demand Specification"** is a document which expresses the quality, capacity, type, level, "environmental protection and sustainability criteria" (Reasonability criteria), technical support and post-sale services of the item/material in a way that secures fair competition among all bidders.
2) **"Proclamation"** means the Addis Ababa City Administration Government Procurement and Property Management Proclamation No. 92/2026.
3) **"Procurement Department"** means a department of a government agency that prepares procurement plans and executes procurement, subject to the internal organization of government agencies according to their nature of work;

4) **“Total cost”** means the cost of a procurement, including taxes and any other costs, or the total cost calculated on the basis of a life cycle cost analysis, as applicable, for a procurement carried out by a government agency;
5) **“In any similar contract”** means a contract for the use of intellectual property, a contract for the lease of a trade name and designation, and other similar contracts;
6) **“Lease agreement”** means a contract under which government agencies can obtain assets on rent for a specified period of time, which can save costs, allow flexibility, and use the latest technology instead of purchasing them;
7) “**Bid Guarantee**” means a guarantee that bidders secure from the time they became participants of the bid until the time the contract is signed.
8) **"Debarment"** means the act of including any company, organization, or individual in a list of debarred suppliers, on the grounds that they are ineligible to participate in any procurement or sales process under this law.
9) **"Contract"** means a written document that represents an agreement between the procuring entity and the supplier.
10) **"Contractual guarantee"** means a non-conditional guarantee provided by the supplier to the contractor to ensure the successful completion of a contractual agreement;
11) **"Common use goods and services"** means procurement of common use goods and services, which are centrally procured through an office established for this purpose, with the office identifying what constitutes common use goods and services;
12) **“Commercially available software”** means a product that contains a license and a physical copy, and that displays and maintains records of procurement processes for future reference and audit purposes;
13) **"Electronic bid auction"** is a procurement method in which bidders compete by reducing prices and the government agency awards the contract to the bidder who offers the lowest price.
14) **“Key personnel”** means individuals who are responsible for carrying out the main activities of the organization and who have a direct and significant role in these activities, and includes the organization’s chief executives and professionals involved in the main activities, whether working at the organization’s headquarters or in project offices;
15) **“Electronic procurement”** means a system whereby government agencies use electronic systems to procure goods, services other than consulting, consulting services, and construction works;
16) “**List of banned suppliers”** means information containing a list of suppliers who have been banned from participating in government procurement or sales for a specific or indefinite period due to misconduct;

17) "**Annual Procurement Plan**" means a document that describes when and how government agencies will procure goods, non-consulting services, consulting services, and construction works needed to implement their planned work programs;
18) "**Supervisors**" are institutions that are legally authorized to control activities related to government procurement and property management and carry out regulatory activities using the electronic system; Includes the Bureau of Justice, the Auditor General, the Ethics and Anti-Corruption Commission, the Finance Bureau, the Public Property Administration, the Procurement and Decision Board and other bodies with similar roles;
19) "**Writing**" means that if any document, evidence, or notice is requested in writing in accordance with this Directive, if this document, evidence or notice is submitted electronically, is accessible, and can be used as a reference, the request for the presentation of the case is complete;
20) "**Fixed single price**" means a single price that is being studied and presented quarterly by an authorized body of the city administration;
21) The definitions provided under Article 2 of the proclamation shall also apply to this Directive.
22) Any expression in the masculine gender includes the feminine.

3. Scope of Application

Without prejudice to the provisions of the Proclamation:

1) This Directive shall apply to procurement carried out by an office or institution designated as a government office or institution of the Addis Ababa City Administration, in whole or in part, managed by the city administration budget;
2) Notwithstanding the provisions of sub-article (1) of this article, it shall not apply to the procurement of medicines and medical equipment by the Addis Ababa City Administration Government-owned development enterprises;
3) Government health institutions may purchase essential medicines in accordance with this guideline only if the procurement cannot be carried out centrally by the Ethiopian Medicines Supply Service in accordance with sub-article (2) of this article;
4) For the purposes of sub-article (3) of this article, "essential medicine" means any medicine included in the list of medicines prepared by the Health Bureau, taking into account the medicines that are given priority in terms of protecting public health and that should not be lost from stock at any time.

4. Principles

The implementation of government procurement and inventory management shall be based on the following principles:

1) To ensure the best possible value for public funds;

2) To not discriminate between competitors and bidders, except as specifically permitted by this Proclamation;

3) To ensure that the criteria for making any procurement and asset disposal decisions and the decisions made in each procurement and asset disposal process are transparent and fair to all parties concerned;

4) To ensure that any government procurement and asset disposal process does not have a negative impact on the environment and takes into account a life-cycle cost analysis and encourages reuse;
5) To ensure that procurement and asset disposal processes are carried out in an efficient, effective and cost-effective manner;
6) To carry out procurement and asset management activities with integrity;
7) To ensure that decisions made and actions taken in government procurement and asset management are accountable;
8) To encourage the innovation and use of technology.

Chapter Two
Functions and Responsibilities

5. Functions and Responsibilities of the Office

The Office shall have the following functions and responsibilities, subject to the powers and duties conferred by the Proclamation:

1) It shall organize and analyze the current procurement information based on the information available from the electronic system and make it available to the public;
2) It shall authorize third parties contracted by government agencies to use the electronic system to perform activities related to procurement and asset sales, as necessary;
3) It shall authorize government development partners to use the electronic system, but they must follow the information security and protection and accountability requirements when using this system; it shall determine the manner in which it is used;
4) It shall monitor and ensure that the electronic procurement system disseminates and discloses relevant information to suppliers, government agencies, regulatory bodies, financial institutions and other users that are useful for its implementation;
5) It shall monitor and control whether the electronic procurement system automatically starts the first day and time for the opening of bids, and automatically closes the last day and time for the submission of bid documents;

6) Monitors that the electronic procurement system contains information on the performance status of suppliers and that the information is accessible in a manner that allows government agencies to use it for the evaluation of procurement bids;
7) Ensures that the electronic procurement system is designed to capture information on key procurement performance indicators and to generate various reports;
8) Establishes an electronic operating system applicable to government procurement in collaboration with relevant entities;
9) Collaborates with relevant institutions to implement precautionary measures to reduce security vulnerabilities and risks that may arise during the use of the government electronic procurement system;
10) Coordinate with relevant government institutions and stakeholders for the implementation of the electronic procurement system;
11) Develop a capacity building policy and plan for government procurement, conduct research to enhance institutional and human resource capacity, and provide capacity building training;
12) Establish, develop, maintain, and update a data dissemination and storage system for government procurement;
13) Implement activities to ensure a harmonized government procurement system between the city administration and the federal government;
14) Collaborate with stakeholders working for the development of government procurement and interested parties in the sector by creating institutional relationships;
15) Facilitate the integration of budget and other financial information of government offices under the city administration with the electronic system;

6. **Duties and Responsibilities of Heads of Government Offices**

Without prejudice to the provisions of Article 5 of the Proclamation, the Head of Government Office shall have the following additional detailed functions and responsibilities:

1) Signing of contracts, or, as the case may be, authorizing the signing of contracts, and monitoring the implementation of procurement in accordance with the contract;
2) Ensuring that the annual procurement plan is prepared by *Hamle* 30th (E.C.) accordance with the government electronic procurement system or other relevant operating systems and is accessible to the office;
3) Ensuring that the annual report on procurement performance is prepared and submitted to the office within 15 days of the end of the quarter, including all procurements carried out by the office, by *Nehase* 30th (E.C) of the new fiscal year;
4) To ensure that the information and evidence required for the audit work are provided in a timely manner, to provide a working space for the assigned auditors, and to assign a manager or expert who can explain the procurement process;

5) To make appropriate adjustments based on the comments made on the procurement audit findings and to inform the relevant body of the adjustments made;
6) To ensure that payments to suppliers are not delayed without sufficient reason, and to hold any party who delays payment without sufficient reason and causes additional interest or loss to the institution legally liable;
7) To provide information to the relevant tax collection office regarding payments made to suppliers in connection with the performance of the institution's procurement;
8) To ensure that various procurements to be implemented meet the necessary quality requirements or standards in the contract and the detailed description prepared;
9) To monitor and control the implementation in accordance with the established plan and work program, and to impose liability for operational gaps as necessary;
10) To monitor the proper performance of the work unit and the approval committee by paying due attention to the procurement work, and to take corrective action as necessary.

7. Duties and Responsibilities of the Procurement Division

Without prejudice to the responsibilities assigned by the Proclamation, the Procurement Division of the Government Office shall have the following additional detailed functions and responsibilities:

1) Prepare a procurement plan by gathering the needs of the office, prepare a quarterly procurement performance report and prepare a consolidated annual report and other documents and submit them to the head of the office;
2) Identify, monitor, and coordinate procurements that are in joint with the needs of other offices and procurements made by third parties;
3) Identify certain procurements by the office for their procurement to be carried out centrally under a framework agreement, complete with the required information, and send them to the institution authorized to carry out the procurement in a timely manner;
4) Except as permitted by Article 28, Sub-Article 1 (g) and (h) of the Proclamation and this Directive, ensure that any government procurement is carried out from suppliers registered in the government electronic procurement system and which have bank accounts;
5) Prepares bidding documents in collaboration with the requesting department and submits them to the Procurement Approval Committee, and adjusts bidding documents based on the comments from the committee;
6) In accordance with Article 44 Sub-Article 2 of the Proclamation, it shall publish the bidding document on the electronic system, upload it on the website of the office as necessary, provide or cause to be provided explanations to questions raised on the bidding document in accordance with the provisions of the Proclamation and these Guidelines;

7) When necessary, it shall prepare and manage a bidding document reception box, open bids, and invite the procurement department and internal audit representative to attend the bid opening ceremony to the extent possible;
8) Receive and ensure the preservation of bid securities, and deposit or return the bid securities to the government in accordance with the conditions specified in the bidding document;
9) Carefully maintain and preserve other necessary procurement documents, including bidding documents submitted by bidders, and provide appropriate explanations when requested by the relevant legal authorities;
10) He shall review the bidding documents as a group or cause them to be reviewed. If the evaluation result requires approval by the Disposal of Assets Approval Committee due to the procurement amount exceeding the amount specified in this guideline, he/she shall submit it to the committee and shall adjust or cause it to be adjusted based on the opinion of the committee.
11) The results of the bid and the announcement of the winner shall be communicated to the bidders through the electronic procurement system, and the results of the bid shall be announced at the same time;
12) When the bidding document is reviewed by the procurement department, it shall ensure that the information is accurately recorded, that the calculations are correct, and that no action has been taken that may benefit or harm a bidder;
13) It shall provide explanations to the committee regarding the procurements approved by the Procurement Approval Committee or cause explanations to be provided;
14) It shall approve procurements below the financial limits specified in this guideline, as authorized by the head of the government agency;
15) If there is no separate contract management department, it prepares a draft contract, negotiates with suppliers on the draft as necessary, signs the contract or has it signed by the relevant superior in accordance with the authority granted, monitors and ensures that the government agency fulfills its obligations and observes its contractual rights in accordance with the contract;
16) Selects candidates to participate in procurements conducted through price submissions (Performa), and collects price submissions in cases where the electronic procurement system cannot be used in accordance with Article 20 (4) of the Proclamation;
17) In the case of procurements including price quotations, it shall ensure that the price of the suppliers selected as the winner is the market price. If the price quoted is found to be higher than the current market price, it may propose to cancel the bid or negotiate the price in accordance with this guideline;
18) Subject to the provisions of Article 12, Sub-Article (3) of the Proclamation, it shall provide the requested information to the party requesting information regarding the procurement process of the Office as soon as possible; However, if the process of providing the

information causes additional costs to the Office, the party requesting the information shall be required to cover the costs;

19) If there is no separate contract management department, it shall prepare a contract performance monitoring document in accordance with Article 6, Sub-Article (7) of the Proclamation and evaluate the performance of suppliers who have entered into contracts with the Office, including price quotations, and organize and maintain the information and inform the Head of the Office;
20) Ensure that various procurements to be carried out meet the required quality standards or standards as per the contract and the prepared specifications;
21) Monitor and control the implementation of the procurement in accordance with the established plan and work program; Be accountable for any operational gaps that may arise.

8. Establishment of a Committee for the Approval of Procurements and the Disposal of Assets

1) The head of the institution shall establish one or more committees for the approval of procurements and the disposal of assets, each consisting of not less than 3 (three) members, tasked with reviewing and approving the institution's procurements and the disposal of its assets. The term of service for such a committee shall not exceed three years.
2) Members of the committee must meet the following criteria:
   a) As far as possible, they should hold senior-level positions within the institution;
   b) They should be drawn from diverse professional fields and possess better knowledge and experience regarding the institution's operations;
   c) They must demonstrate good conduct and have no record of disciplinary or criminal offenses.
3) The head of the institution may, if deemed appropriate, extend the term of service of the members of the procurement approval committee for one additional term.

9. Duties and Responsibilities of the Procurement and Disposal of Assets Approval Committee

Without prejudice to the functions and responsibilities assigned by the Proclamation, the Procurement and Disposal of Assets Approval Committee shall have the following detailed functions and responsibilities:

1) It shall ensure that the annual plan prepared by the Procurement Department is prepared in a manner that takes into account the conditions specified in this Directive and submit its opinion to the Head of the Department;

2) It shall ensure that the tender document prepared by the Procurement Department is prepared in a manner that takes into account the conditions specified in this Directive;
3) It shall examine, approve, amend or cancel the evaluation reports submitted to it by the Procurement Division, in respect of procurements other than those carried out under Article

28 of the Proclamation or procurements carried out through price submission, by carrying out the following verification activities:

a) That the evaluation was carried out in accordance with the tender documents issued;

b) That it complied with the provisions and procedures of the Proclamation and this Directive;

c) That the detailed evaluations carried out in reaching the procurement decision and the overall procurement process are sufficient to ensure that the procurement decision is reasonable for the payment to be made by the Office;

4) Any decision of the Committee on the submitted procurement evaluation report shall be reasonable;
5) It shall consult the Head of the Office on the procedures for the better implementation of the Proclamation, the Implementation Guidelines and other implementation procedures issued by the Office;
6) Submits a report to the head of the office on the procurement activities carried out by the committee, the problems encountered and the proposed solutions;
7) Provides explanations to the head of the office, the office or any other authorized body when requested about the decisions made by the committee during the procurement performance reporting process of the office;
8) The contractor shall submit a recommendation to the Chief Executive Officer to return the contract to the contractor, confirming that the non-fulfillment of the contract obligation by the contractor does not cause any damage or additional costs to the office and that it was not due to the negligence of the contractor;
9) Subject to the provisions of sub-article (2) of this article, when it is allowed by the office to approve the procurement by the Board of Management in accordance with sub-article (4) of article 7 of the Proclamation, the Board shall perform the functions and responsibilities assigned to the Procurement Approval Committee in this article;
10) The detailed roles and responsibilities of the Chairperson and Secretary of the Approval Committee, as well as the meeting procedures, are set out in Appendix 1 to these guidelines.

10. Establishment of an ad hoc procurement review committee

1) In accordance with Sub-Article (4), Article 5 of the Proclamation, for complex procurements requiring detailed technical evaluation, an ad hoc procurement review committee shall be established by the head of the office, consisting of experts from the procurement department, as well as experts from the user department, other departments with the required technical experience and knowledge, and, as necessary, from federal or Addis Ababa City Administration government offices outside the office;
2) The number of members of the committee shall be determined by the head of the office according to the estimated amount and complexity of the procurement, and the committee members shall not be less than three;

3) The experts selected from the procurement department or the chairperson and members of the review committee shall sign the code of conduct stating that they have no conflict of interest in accordance with Appendix 2 to this guideline;
4) The meeting procedure, evaluation method and process shall be carried out in accordance with Appendix 3 to this guideline;
5) The committee and the experts selected from the procurement department shall be held accountable for the actions they take during the review in accordance with the proclamation and this directive.

11. Duties and Responsibilities of the ad hoc Procurement Review Committee

The ad hoc Procurement Review Committee, established by the Head of the Office in accordance with Article 10 of this directive, shall have the following duties and responsibilities:

1) It shall conduct the evaluation based on the procurement specifications (detailed statement of requirements, specifications and detailed construction works) prepared by the user department or the procurement department, as well as the evaluation criteria;
2) Confirm the preliminary evaluation provided by the procurement department based on the criteria and evaluation method set out in the bidding document;
3) Conduct technical and, as necessary, post-evaluations and ensure that no action has been taken that may benefit or harm a bidder;
4) The ad hoc procurement evaluation committee established by this directive shall not conduct price evaluation and market research;
5) It shall complete the evaluation before the bid validity period expires and report to the procurement department;
6) If the evaluation is not completed within the period specified in sub-article (5) of this article, it shall notify the procurement department in advance to extend the bid validity period;
7) It shall submit the results or report of the technical evaluation to the procurement department by recording it in a minute;
8) When requested by the relevant parties, he/she shall provide appropriate explanations;
9) As necessary, he/she shall ensure that the procurement is submitted in accordance with the technical requirements;
10) It shall perform other duties and responsibilities assigned by its superior.

12. Duties and Responsibilities of the System Administrator of Government Offices

1) He/she shall record and update the institutional organization and general information of the institution used for the service of the government electronic procurement system;

2) He/she shall ensure that the departments, committees, groups and experts of the office with responsibilities related to procurement are registered in the government electronic procurement system;
3) He/she shall assign tasks to the experts and officials referred to in sub-article (2) of this article to carry out the tasks assigned to them in relation to procurement, by order of the superior of the office;
4) Under the authority or delegation of the head of the office, the department shall assign and monitor the procurement of third parties or other external entities contracted to perform functions related to government procurement, so that they can perform their functions using the government electronic system.

Chapter Three
Basic Government Procurement Provisions
Section One
Development of Procurement Plan

13. Regarding the establishment of a procurement plan

1) The head of the procurement department of any government agency shall initiate the electronic procurement system to allow the beneficiary departments of the agency to submit their procurement needs in accordance with the agency's work program, time, and budget;
2) For the purposes of this section of the policy, "departments" shall mean, as appropriate, the executive departments, directorates, departments, work processes, and others at the central level of the government agency, including branch offices;
3) The institutions shall be obliged to submit the procurement plan for common use items for procurement under a framework agreement in accordance with the schedule established by the agency that carries out the central procurement;
4) The head of the procurement department and the supreme head of the institution, as appropriate, shall be responsible for any performance gaps that may arise due to the failure to submit the procurement plan to the agency that carries out the procurement at the central level in a timely manner.

14. Identifying, collecting and organizing procurement needs

1) The procurement department shall do the following to determine the annual procurement needs by collecting the procurement needs of the user departments under the government office:

   a) Requesting the user departments within the office to submit their annual procurement needs;

   b) Identifying the needs submitted by the user departments by type of procurement, quantity and estimated unit price, quality level and market alternatives;

c) Identifying the goods, construction works and services that the office will give special attention and priority to;

d) Verifying whether the requested need has sufficient suppliers or not;

e) Knowing the price estimate required for each procurement based on market information obtained from the office's research;

f) Ensuring that a technical requirement statement has been prepared or will be prepared in the future by the users and experts with appropriate knowledge;

2) The user departments within any government office shall prepare their procurement needs based on the information collected and organized. When preparing their procurement requirements, they should consider the following:

a) Ensure that the need cannot be met by other resources or assets that are not in use in the organization;

b) Ensure that the need can be met by a product or service available in the market;

c) Ensure that the procurement requirement does not include unused assets and does not cause the organization unnecessary costs;

d) In the case of purchases that are intended to be used for a long time, the procurement requirement takes into account future demand growth;

e) Ensure that the requirement is based on the normal supply or level available in the market, unless compelling circumstances arise; and

f) Ensure that the procurement need does not harm the safety and protection of the environment of the community;

3) The procurement department shall organize its procurement needs based on the information gathered from the user departments and market research and taking into account the following factors:

a) Subject to the provisions of Article 23, Sub-Article 4 of the Proclamation, in the event of a situation where goods, services or construction works are to be procured together, organize them based on the type of procurement that accounts for more than 50 (fifty) percent;

b) Group similar and similar needs together;

c) Ensure that there are sufficient suppliers in the market for the procurements to be carried out together or that the procurement is divided into different categories according to the type of supplier to ensure sufficient competition;

d) Ensure that the procurement is convenient for implementation and free from restrictive conditions;

e) Organize the procurement in a manner that increases the opportunity for local producers, women traders and disabled people's associations as well as micro and small enterprise creation associations to compete and maximizes community benefits.

15. <u>Development of Procurement Plan</u>

1) The Procurement Department shall prepare an annual procurement plan for any government office and its subordinate bodies to implement the planned work schedules in

a timely manner, using the government electronic procurement system and other relevant operational systems as necessary;

2) The procurement plan prepared by the Procurement Department shall be capable of achieving the following objectives:

a) To implement the principles of government procurement as set out in Article 4 of the Proclamation,

b) To ensure that the procurement plan is consistent with the work plan of the office and the financial plan, and to ensure effective budget preparation,

c) To prevent procurement irregularities and to increase competition, and to make the procurement process of the office more efficient and cost-effective, and

d) To identify potential risks during procurement and to make appropriate preparations in line with the project procurement strategy.

16. Contents of the Procurement Plan

1) The procurement plan prepared in accordance with Article 14 of this Directive shall include the following:

a) The type of procurement,

b) The amount of the procurement,

c) The description and category of the procurement,

d) The amount of money required for the procurement, budget and source of financing,

e) The procurement method and type of contract suitable for the procurement,

f) A schedule indicating the time frame for the implementation of the main procurement activities, and

g) Other matters that require attention according to the nature of the institution.

2) The plan prepared by government institutions shall be prepared in a manner that allows for the procurement to be carried out in a package or centrally.

17. Choosing a Procurement Method

1) During the preparation of the procurement plan, government institutions shall select the most appropriate procurement method from the procurement methods permitted by the Proclamation and this Directive for each type of procurement and indicate it in the plan;

2) When preparing the procurement plan, the government institutions must ensure that all known procurement needs are included in the procurement plan and that an appropriate procurement method is selected for each procurement, and that the financial limits set out in Proclamation No. 92/2018, i.e. the maximum financial ceiling permitted by law for procurement through price submission (quotation), limited tender or other procurement methods, are strictly followed and indicated in the plan by selecting the appropriate one;

18. Determining the Time for Procurement

1) Government institutions shall use the electronic procurement system, as appropriate, and other operational systems, to determine the time for major activities in the procurement process;

2) In accordance with sub-article (1) of this article, government institutions shall, when determining the time for procurement, take into account the following and other relevant factors, depending on the type of procurement to be carried out:
   a) That the procurement is consistent with the work program of the office at the time of the procurement;
   b) That it takes into account the time when there is ample supply in the market;
   c) That it maintains a minimum bid waiting period in accordance with this Directive and provides additional time for the preparation of bidding documents to ensure broad competition as much as possible; and
   d) That sufficient time is provided for the preparation, review and approval of documents for complex and large-scale procurements;
3) Subject to the provisions of sub-article (1) of this article, due care shall be taken to ensure that the time allocated for each type of procurement does not exceed the time required to carry out the main activities of the procurement.

19 Regarding the examination of the procurement plan

1) In accordance with article 7 (3) of the Proclamation, the Procurement Approval Committee shall examine the annual procurement plan prepared by the Procurement Division of the Office and submit any comments on the plan to the Head of the Office;
2) The Procurement Approval Committee shall examine whether the procurement plan has been prepared in a manner that takes into account the following factors:
   a) Whether the procurement needs are consistent with the Office's programs and financial plan;
   b) Whether there is no alternative to procurement to meet each need;
   c) Whether the plan is prepared in a manner that allows for the procurement to be carried out in a package;
   d) Whether the procurement plan has been prepared in accordance with the provisions of the Proclamation and this Directive and is supported by market research; and
   e) Whether other conditions that should be fulfilled in view of the special characteristics of the Office are fulfilled.

20. Regarding the Approval and Revision of Procurement Plan

1) The procurement departments should present their annual procurement plans they have prepared to the Head of the office and cause it to be approved;
2) The head of the government office shall submit the procurement plan submitted by the procurement departments to the Procurement and Disposal Approval Committee for its comments in accordance with sub-article (1) of this article;
3) The Procurement and Disposal Approval Committee must review the procurement plan and send its opinion to the head of the office;
4) The head of the office shall ensure following conditions are fulfilled and approve the procurement plan of the office after making the due examination:

a) Whether he procurement plan is in line with the office's work programs and financial plans, as well as prepared in a way to ensure effective budget preparation;
b) Whether the procurements that can be procured in packaged are gathered together;
c) As determined by the Bureau, the procurements that can be procured by the framework agreement with other offices has been identified, the information has been completed and sent to the authorized office for the procurement on time, and
d) The plan includes all the procurement needs of the office and presented to the Approval Committee and obtained the committee's comments;

5) The head of the government institution should monitor the implementation of the procurement process to ensure that it is done in accordance with the approved procurement plan;
6) If the annual procurement plan prepared by the procurement department is approved by the head of the office and sent to the office, government offices may not divide the procurement or execute outside of what is specified in the plan;
7) Government institutions may revise their procurement plan at any time when they find it necessary and when it is believed to be so by the head of the institution;
8) As stated under sub-article (7) of this article, the revised procurement plan must be notified to the relevant departments within the institution to which the initial plan was sent, as well as to the Bureau.

21. Making the Annual Procurement Plan Public

1) Without prejudice to Article 20 (4) of the Proclamation, any activities carried out by government institutions in relation to the procurement plan in accordance with the Proclamation and this directive must be done using the electronic system or other operational systems as necessary;
2) Government institutions must complete and prepare their annual procurement plan by July 30 (Hamle 30) and make it available to the public using the electronic procurement system or other operational systems as necessary, as well as on the institution's website.

21. Preparation of Project Procurement Strategy

1) Government institutions, except for emergency projects, must prepare a project procurement strategy for the execution of projects developed following the Federal Government Projects Management and Leadership Proclamation No. 1210/2020 (2012 EC);
2) The project procurement strategy shall be prepared in advance as part of the project concept document, and it must be prepared in a manner that achieves the project's objective and ensures value that is brought by the government funds ;
3) The project procurement strategy must, at a minimum, include the procurement need and type required to achieve the project, the financial budget, potential risks and mitigation

methods during procurement, market research, alternative procurement methods, and contract types;

4) A project procurement strategy prepared in accordance with this article must be made accessible to the public on the institution's website and the government electronic procurement system, or other operational systems as necessary, within one month from the time it is approved by the relevant body.

Section Two

Electronic Procurement System

23. Communication Methods for Government Electronic Procurement

1) Any communication related to government procurement between the Bureau, government institutions, candidates, bidders, suppliers, financial institutions, and other entities specified in this directive, as well as among each other, must be conducted through the electronic system, or, in situations where this system cannot be implemented, in accordance with other relevant operational procedures authorized by the Bureau;
2) For the implementation of sub-article (1) of this article, "communication" means it includes the publication of procurement plans, tender notices, sale of bidding documents, submissions of amendments and clarifications, pre-bid meetings, tender opening ceremonies, tender evaluation results and notifications, submission of complaints and responses, appeals, as well as contract administration and other related communications;
3) With respect to signatures and seals on any document submitted using the electronic system in accordance with the Proclamation and this directive, the Electronic Signature Proclamation No. 1071/2018 (2010 EC) and the Electronic Transaction Proclamation No. 1205/2020 (2012 EC) shall apply as appropriate;
4) Departments, committees, teams, and employees entrusted with duties and responsibilities under the Proclamation and this directive in connection with government procurement must perform their work using the electronic procurement system;
5) Pursuant to the provisions of Article 20 (4) of the Proclamation, when conditions arise where government institutions are unable to implement the electronic procurement system, they must obtain the permission of the Bureau to execute the procurement through a non-electronic procurement system;
6) Pursuant to sub-article (5) of this article, when the Bureau permits government institutions to execute procurement through a non-electronic procurement system, it must be done by verifying that bidders are not suspended from participating in tenders;
7) For the implementation of sub-article (5) of this article, "conditions where it is impossible to implement the electronic procurement system" means situations where the electronic procurement system cannot be utilized due to the Bureau being satisfied that the procurement-executing institution is unable to conduct procurement through the electronic

system owing to network interruptions or supply problems with other related infrastructure, or when disruptions occur in the Bureau's database, or when the Bureau determines that any risk has occurred to the electronic procurement system, or due to other reasons.

24. Registration on the Electronic Procurement System

1) Government institutions, as well as regulatory bodies, must register on the electronic system to perform their duties and responsibilities assigned to them under the relevant law and this directive using the electronic procurement system;
2) Financial institutions must register on the electronic system to carry out procurement-related guarantees, payments, and associated operations;
3) Members of the business community interested in participating in government electronic procurement tenders must register on the electronic system, keep their information updated at all times, and renew their registration as appropriate.

25. Utilization of the Government Electronic Procurement System

1) Any bidder participating in government procurement has the responsibility to monitor and verify that all payments and guarantees provided by financial institutions are submitted using the form designed for this purpose on the electronic system;
2) When the Bureau determines that any error, omission, or risk has occurred within the electronic system, it may correct, modify, or terminate the service in whole or in part at any time without prior notice; however, it must immediately notify the institutions that were using the system about the action taken;
3) The Bureau shall be held liable for incomplete procurement processes, insufficient time for bid document submission, network interruptions, loss of user credentials, website disruptions or shutdowns, damages resulting from improper use or negligence, or direct damages proven by evidence that occur due to the system's own administrative gaps and not from the user's lack of precaution;
4) Government institutions must grant a time extension proportional to the duration of the issue to compensate for time interruptions or information accessibility problems that occur due to their own lack of precaution or negligence while the tender remains active;
5) No user or administrator of the government electronic procurement system shall access bidders' information and identity before the opening of the tender;
6) The calculation of time limits specified in the electronic system for procurement and contract administration activities shall be implemented based on the time schedule of the Bureau's data center database;
7) Any user of the electronic system must exercise high caution to close the computer they used following the correct procedure so that it cannot be utilized by another user.

Section Three
Special Preference

26. General Provisions of Special Preference

Except for procurements executed through price quotations and direct procurement, a special preference shall be granted in any procurement in accordance with Article 14 of the Proclamation for goods manufactured in Ethiopia, non-consultancy service providers, consultants, and contractors, for consortiums or partnerships or joint ventures formed between foreign and domestic companies, or for micro and small enterprises engaged in manufacturing, for associations of persons with disabilities and businesswomen, as well as for technological innovations.

27. Special Preference for Goods Manufactured in Ethiopia

1) The special preference granted for goods manufactured in Ethiopia in accordance with Article 26 of this directive shall be during price competition and must be implemented as indicated under sub-article (4) of this article;
2) The special preference provided in accordance with this article shall be applicable when evidence certified by an authorized auditor is presented, showing that the value-added ratio indicated under sub-article (4) of this article out of the total cost incurred to manufacture the bidded goods is value added in Ethiopia; the audit report submitted in accordance with this article must show the amount of value added to the type of goods under the tender within one year prior to the issuance of the tender;
3) If an audit report is required to compete in any tender issued by a government institution, the submitted audit report must be prepared by a professional or firm with a valid auditing license from the Accounting and Auditing Board;
4) The amount of special preference granted for goods manufactured in Ethiopia and the value-added amount that must be fulfilled:

   a) For pharmaceuticals and medical devices manufactured in Ethiopia for activities carried out pursuant to Article 3(3) of this Directive:

V.A.T Rate	Especial Preference Amount
20%- 35%	20%
36%- 50%	21%
51% -65%	22%
66%- 80%	23.5%
81% - 100%	25%

   b) Supplying other items

V.A.T Rate	Especial Preference Amount
20%- 35%	10%
36%- 50%	11%
51% -65%	12%
66%- 80%	13.5%
81% - 100%	15%

5) The government institution has the responsibility to verify that the value added is accurate by requiring and evaluating the necessary evidence;
6) Any bidder who, with the intention of benefiting from the special preference, submits exaggerated, fraudulent, or false information regarding the value added shall be held accountable in accordance with the system established under the Proclamation and this directive;
7) Without prejudice to the government institution's obligation to report to justice organs for criminal liability any auditor who prepares or collaborates in preparing an exaggerated, misleading, or fraudulent document for the audit report submitted pursuant to sub-article (3) of this article, the government institution must also report to the Accounting and Auditing Board for measures to be taken in accordance with the Financial Reporting and Preparation Proclamation;
8) For the implementation of sub-article (3) of this article, "value added" means the remaining cost after deducting the expenses incurred for imported raw materials and other supplies, as well as costs for services obtained from abroad, from the total cost, and it does not include indirect taxes paid on production;
9) Notwithstanding the provisions of sub-article (3) of this article, in the case of a company that has not previously engaged in manufacturing work verifiable by an audit, or an enterprise that has built a new factory to manufacture products, or a bidder competing to produce and supply the product after winning the tender, the special preference shall apply only if the value-added amount from raw materials to production on the sample produced by the bidder for the bidded item is certified by an auditor as fulfilling the requirements indicated under sub-article (4) of this article;
10) Without prejudice to the provisions of sub-article (2) of this article, the Bureau of Industry shall submit to the Bureau periodic studies regarding the domestic value-added ratio of manufacturing sectors; the Bureau, based on the study, may issue a domestic value-added ratio for manufacturers across various sectors as appropriate.

28. Special Preference Granted to Ethiopian Service Providers, Consultants, and Contractors

1) Government institutions must grant special preference to Ethiopian service providers, consultants, and contractors in accordance with Article 14, sub-article (1)(b) of the Proclamation;
2) The special preference provided in accordance with sub-article (1) of this article shall be applicable during price competition as follows:
   a) 7.5% (seven point five percent) for construction work and consultancy service procurements,
   b) 3% (three percent) for non-consultancy service procurements;
3) The special preference authorized in accordance with sub-article (2) of this article shall apply to individual bidders only if the bidder holds Ethiopian nationality or is a foreign national of Ethiopian origin;
4) The special preference authorized in accordance with sub-article (2) of this article shall apply to entities with legal personality only when all of the following conditions are fulfilled:
   a) The company is established under Ethiopian law and its headquarters is located in Ethiopia,
   b) More than 50% (fifty percent) of the company's shares or capital ownership is held by Ethiopians,
   c) More than 50% (fifty percent) of the members of the company's board of directors are Ethiopians, and
   d) At least 40% (forty percent) of the company's key personnel are Ethiopians;
5) If domestic contractors commit to subcontracting at least 20 percent of the total value of the work to micro and small enterprises upon winning the contract, they shall be granted an additional 2 percent special preference points over the points allocated for price in the tender evaluation;
6) The implementation of the special preference provided under sub-article (5) of this article shall be as specified in detail within the standard bidding document.

29. Special Preference Granted to Partnerships, Consortiums, or Joint Ventures with Ethiopian Members

1) Government institutions must grant special preference in accordance with Article 14(1)(c) of the Proclamation in any tender where partnerships, consortiums, or joint ventures with Ethiopian members participate alongside foreign bidders to supply goods, provide non-consultancy services, or perform as consultants and contractors, following the prerequisites set forth below;
2) Government institutions, based on the prerequisites set forth in this article, must grant a 3.5% special preference in international tenders where partnerships or joint ventures with Ethiopian members compete;

3) A consortium, partnership, or joint venture shall benefit from the special preference authorized under this article for construction work and consultancy service procurements only when all of the following conditions are met:
   a) The domestic company holds a share of at least 40% (forty percent) of the total bid price for the construction work or consultancy service to be executed, and
   b) At least 40% (forty percent) of the key personnel are Ethiopians;
4) The special preference authorized under this article for a consortium, partnership, or joint venture may apply during goods procurements only when all of the following conditions are fulfilled:
   a) When it is verified by the head of the government institution that the procurement of goods is technically complex and involves knowledge and technology transfer;
   b) When it is necessary to provide other related services associated with the procurement of goods, including installation, assembly, testing, and inspection, and these are to be executed by the domestic company;
   c) The domestic company holds a share of at least 40% (forty percent) of the total bid price of the goods procurement to be executed;
   d) In accordance with the agreement made among the members of the consortium, partnership, or joint venture, the domestic company is given the proper authorization to perform after-sales services and operations and to assume responsibility toward the government institution; and
   e) It is indicated under the agreement made among the members of the consortium, partnership, or joint venture as to who, when, and how proper training will be provided to the government institution regarding the assembly, utilization, maintenance, and related services of the goods;
5) If a consortium, partnership, or joint venture formed between a foreign contractor and a domestic contractor commits to subcontracting at least 20 percent of the total value of the work to micro and small enterprises upon winning the contract, it shall be granted an additional 2 percent special preference points over the points allocated for price in the tender evaluation;
6) The implementation of the special preference provided under sub-article (4) of this article shall be as specified in detail within the standard bidding document;
7) For the implementation of this article of the directive, "consortium" or "joint venture" means a temporary cooperative alliance formed between two or more companies, organizations, or traders to execute a specific project or business objective, which operates without having a distinct legal personality, enabling participants to pool their resources, knowledge, and capacity to perform a common task and fulfill the work by sharing collective responsibility; its definition shall have the meaning assigned to it under the Commercial Code;
8) For the implementation of this article of the directive, "partnership" shall hold the definition given to it under the Commercial Code.

30. Special Preference Granted to Micro and Small Enterprises Engaged in Manufacturing

1) Government institutions must grant special preference in accordance with Article 14(1)(d) of the Proclamation in any tender where micro and small enterprises engaged in manufacturing participate alongside other bidders to supply goods they have produced, following the prerequisites set forth below.
2) Micro and small enterprises engaged in manufacturing shall be granted a 3% (three percent) special preference in any tender where they participate alongside other foreign and domestic bidders to supply goods;
3) In addition to what is authorized under sub-article (2) of this article, they shall benefit from the following special preferences:
   a) When the procurement is executed through an international tender, only the special preference authorized under Article 27 sub-article (1)(a) and (b) shall be applicable,
   b) In lieu of a bid security and performance security, the enterprises may submit a bid security support letter and a performance security letter issued by the government institution that organized them; the support letter submitted in this manner must state the guaranteed amount of money and be signed by the highest official of the institution that organized the enterprises; furthermore, they must fill out and submit a commitment form in accordance with Annex 4 of this directive,
   c) If micro and small enterprises achieve an equal score with other bidders after the special preference is applied, they shall be given priority;
   d) The bidding document shall be provided to them free of charge upon submission of evidence of their legal establishment;
4) Micro and small enterprises engaged in manufacturing may benefit from the special preference authorized under sub-article (2) and sub-article (3) of this article only when they fulfill the following conditions:

   a) They must be established in accordance with the relevant micro and small job creation law,
   b) The special preference shall be granted to micro and small enterprises solely for supplying their own manufactured products; if they hold a license to supply commodities or factory products that are not their own products, they shall not be granted special preference,
   c) Micro and small enterprises shall benefit from the special preference only when the procurement value they are competing for is up to Birr 10,000,000.00 (ten million) only; when the procurement value exceeds this amount of money, they shall be made to compete without being granted special preference,
   d) The micro and small enterprises participating in the tender must submit the following documents and evidence from the institution that organized them:

i) Evidence of good performance,
ii) support letter stating that they have not transferred their license to any third party, that they remain organized solely as a micro or small enterprise, and containing other relevant information.

31. Special Preference Granted to Associations of Persons with Disabilities Engaged in Manufacturing

1) In accordance with Article 14(1)(d) of the Proclamation, associations of persons with disabilities engaged in manufacturing shall be granted a 3% (three percent) special preference during price competition in any tender where they participate alongside other bidders to supply goods they have produced;
2) Without prejudice to the provisions of sub-article (1) of this article, when the procurement for which the associations of persons with disabilities are competing is executed through an international tender, only the special preference authorized under Article 27 sub-article (1)(a) and (b) shall be applicable;
3) If associations of persons with disabilities achieve an equal score with other bidders after the special preference is applied, they shall be given priority;
4) The special preference authorized for persons with disabilities shall apply solely to associations that are organized, engaged in manufacturing work, and supplying their own products, and at least seventy percent (70%) of the share ownership of the association, excluding hired employees, must be held by persons with disabilities;
5) To benefit from the rights provided under this article, appropriate evidence of disability must be submitted from the relevant government institution.

32. Special Preference Granted to Associations of Businesswomen Engaged in Manufacturing

1) Government institutions must grant special preference in accordance with Article 14, sub-article (1)(d) of the Proclamation in any tender where associations of businesswomen engaged in any manufacturing work participate alongside other bidders to supply domestic products they have manufactured, following the prerequisites set forth below;
2) In accordance with sub-article (1) of this article, associations of businesswomen organized in manufacturing work shall benefit from the following special preferences:

   a) Associations organized by businesswomen shall be granted a 3% (three percent) special preference when they fulfill the conditions set forth under Article 30,

   b) When the procurement is executed through an international tender, only the special preference authorized under Article 26 sub-article (4)(a) and (b) shall be applicable,

c) If associations of businesswomen achieve an equal score with other bidders after the special preference is applied, they shall be given priority.

33. Special Preference Granted to Technological Innovations

1) Bidders participating to supply technological innovations shall be granted special preference in accordance with Article 14, sub-article (1)(d) of the Proclamation in any tender where they participate alongside other foreign and domestic bidders;
2) In accordance with sub-article (1) of this article, a 5% (five percent) special preference shall be granted to technological innovations;
3) Technological innovations may benefit from the special preference authorized under sub-article (2) of this article when at least one of the following conditions is met:

   a) The technological innovation must contribute to environmental protection or social development, or
   b) The technological innovation must demonstrate sustainable utilization after the procurement is completed, or
   c) The technological innovation must promote job creation and skill development in priority sectors of the government, or
   d) The technological innovation must support the substitution of imported goods and reduce dependency on imported products, or
   e) The technological innovation must promote a knowledge-based economy and export diversification, or
   f) The technological innovation must support better public service delivery and citizen participation;

4) Fulfillment of at least one of the prerequisites specified under sub-article (3) from letters (A) to (F) of this article must be verified by a certification document issued by the relevant government organ.

34. Procurement Restricted Exclusively to Job Creation Enterprises

Without prejudice to Article 27(6) of the Proclamation, government institutions may execute procurement by competing exclusively among job creation enterprises in accordance with the following;

1) Government institutions may contract construction work with a value not exceeding Birr 50,000,000.00 (fifty million Birr) by competing exclusively among job creation enterprises using the appropriate procurement method;
2) Government institutions may purchase construction inputs, wood and metal products, food, and food-related products with a value not exceeding Birr 5,000,000.00 (five million Birr)

by competing exclusively among job creation enterprises that produce and supply them, using the appropriate procurement method through tender;

3) In accordance with sub-articles (2) and (3) of this article, government institutions may execute procurements for similar purchases within a single fiscal year up to a maximum total of Birr 200,000,000.00 (two hundred million Birr) for construction, and up to Birr 20,000,000.00 (twenty million Birr) only for construction inputs, wood and metal products, food, and food-related products;
4) When government institutions wish to contract out staff cafeterias/clubs, they may award the contract by giving priority competition to job creation enterprises engaged in the sector;
5) For the implementation of this article, "job creation enterprises" includes micro, small, and medium enterprises, cooperatives, and entities identified as job creation institutions under other laws.

35. Implementation of Special Preference

Government institutions must take into account the following prerequisites to implement the special preferences set forth under this section:

1) When bidders participating in a tender qualify for more than one special preference under this section, they may only receive the single highest special preference selected from among them;

2) When only micro and small enterprises, businesswomen's associations, and associations of persons with disabilities engaged in manufacturing compete against each other in a tender, if they achieve equal scores outside the special preference authorized by this directive, priority shall be given to persons with disabilities, women, and micro and small enterprises, respectively; however, if similar associations achieve equal scores in the competition, the winner shall be determined by a draw;

3) The special preferences granted to bidders under this section must be disclosed to the bidders within the bidding document.

Section Four

Retention and Disclosure of Procurement Documents

36. Retention of Procurement Documents

In accordance with Article 12, sub-articles (1) and (2) of the Proclamation, government institutions must retain the following procurement documents within the procurement department:

1) Technical and financial proposals;
2) Estimated cost details;
3) Qualifications and experience of bidders;
4) Financial statements;

5) Arithmetical calculations, technical evaluation results, evaluation reports, and minutes;
6) Internal communications and discussions regarding the evaluation;
7) Recommendations made by the approval committees and minutes of the highest official of the institution;
8) Contract information;
9) Internal audit reports and investigations;
10) Procurement records or disciplinary measures taken against employees; and
11) Procurement plans, bidding documents, and other procurement documents that government institutions deem necessary.

37. Disclosure of Procurement Documents

1) Government institutions must make the following procurement information public using the government electronic procurement system or other relevant procedures:

   a) Annual procurement plans and consolidated annual procurement performance reports,

   b) Tender notices and bidding documents,

   c) Except as provided under Article 57 of the Proclamation, for procurements executed by any government institution, within 5 days after the winning bidder is selected and the procurement contract is signed, the name of the contracting company, type of procurement, contract duration and price, as well as key information showing the contract performance of suppliers,

   d) Technical and financial evaluation results of bidders and the identity of the winning bidder,

   e) Key information describing the complaint process when a complaint is lodged against the procurement process,

   f) Other information as necessary;

2) The Bureau shall make public the list of registered suppliers and the list of suppliers suspended from participating in government procurement using the government electronic procurement system;

3) Government institutions must provide assurance that any information or statement they display or distribute is reliable, accurate, or complete.

38. Disclosure of Procurements on Website

Except for confidential procurements executed in accordance with Article 57 of the Proclamation, for procurements executed by any government institution, necessary contract information must be made public on the electronic procurement system within five days after the winning bidder of the procurement tender is selected and the procurement contract is signed.

Section Five

Pre-Qualification Criteria of Competitors

39. Pre-Qualification Criteria to be Fulfilled by Competitors

1) Without prejudice to the provisions listed under Article 17 of the Proclamation, competitors are required to fulfill the following before passing to the detailed evaluation:

   a/ Provide a value-added tax registration certificate, unless the procurement is exempt from value-added tax,

   b/ Provide a business registration certificate and a valid business license issued by the relevant government institution,

   c/ Provide a certificate showing registration for excise tax, when competitors participate to supply goods or services subject to excise tax,

   d/ Attach a bid security,

   e/ Properly fill out the bidding form issued to the bidder,

   f/ Fill out a commitment form promising not to engage in fraudulent activities,

   g/ Provide a tax clearance certificate showing that competitors have fulfilled their proper tax and duty obligations for the tax year,

   h/ Include and submit as necessary competency certificates, authorizations issued by manufacturers or distributors, consortium or joint venture establishment documents, as well as other required documents;

2) Notwithstanding the provisions under sub-article (1)(a) of this article, government institutions may permit unregistered suppliers for value-added tax to compete for one-time procurements whose total value does not exceed Birr 500,000 (five hundred thousand);

3) Unless the bidder is registered on the securities market, any entities with legal personality, partnerships, consortiums, or joint ventures participating in government procurement are obligated to disclose the beneficial owners who hold rights in these entities as a pre-qualification criterion;
4) For the implementation of sub-article (3) of this article, beneficial ownership right is expressed under the following conditions:

   a) Individuals who directly or indirectly own or control at least ten percent [10%] of the company's shares or voting rights,

   b) Individuals who exert significant influence or control over the company through other means, or

   c) Individuals who have ultimate and effective control over the company, whether registered as owners or not;

5) If it is verified by government institutions that the beneficial ownership information submitted by bidders is false, incomplete, or lacks accuracy, they may reject the submitted bidding document from the outset and refer the case to the relevant body for legal action to be taken against the bidder;
6) Bidders who fail to fulfill the pre-qualification criteria as specified under sub-articles (1) and (3) of this article shall not pass to the next detailed evaluation stage;
7) Without prejudice to the provisions under sub-article (1) of this article, even if bidders fail to include requested legal documents, excluding the bid security, with their bidding documents due to various reasons, they shall be allowed to proceed in the tender if they fulfill and provide the required documents upon request during the preliminary evaluation, provided it is verified that the documents were issued before the closing of the tender.

40. Conflict of Interest

1) The details shall be specified in the standard bidding documents based on the type of procurement, and no competitor shall have a conflict of interest;
2) In accordance with Article 17, sub-article (1)(c) of the Proclamation, bidders found to have a conflict of interest must be disqualified during the pre-qualification criteria evaluation without passing to the detailed evaluation;
3) A bidder shall be deemed to have a conflict of interest if:

   a) they have currently or previously been involved, directly or indirectly, in the preparation of documents or consultancy services for the goods, construction works, consultancy, and non-consultancy services being procured under the tender, or have a relationship with companies involved in the construction, or participated in the work as one of its partners;

b) they are in a position to distort the tender process, directly or indirectly, through a relationship with a third party by providing information that influences the decision-making process of other bidders and the procurement-executing body;

c) they have submitted more than one bidding document during the tender process;

d) the bidders share a single representative for the same tender purpose;

e) a bidder has a professional or family relationship with an employee of the government institution who is directly or indirectly participating in the procurement;

4) Pursuant to sub-article 3(e) of this article, a detailed evaluation must be conducted regarding whether the bidder has a conflict of interest, the role of the institution's employee throughout the overall tender process, whether the employee has recused themselves from the procurement process in the manner specified under Article 49 of this directive, and the potential impact on the tender process;
5) If the bidder fails to disclose the conflicts of interest listed above upon their occurrence, or if the institution discovers the issue at any time, or if it can be verified by the relevant body, the bidder may be disqualified from the competition or the contract may be terminated.

41. Conditions Under Which Former Employees of Government Institutions May Participate in Tenders

1) In accordance with Article 17, sub-article (1)(g) of the Proclamation, a person who was an employee of the government institution before the tender was issued may participate in the tender only if it has been more than one year since they left the institution as of the date they submit their bidding document;
2) The restrictions set forth under sub-article (1) of this article shall apply to all tenders issued by the procurement-executing institution to prevent conflicts of interest and ensure fair competition within the procurement process, regardless of the procurement's value and nature;
3) Notwithstanding the provisions under sub-article (1) of this article, a former employee of the government institution shall not participate in that specific tender if they had a direct role in preparing documents or participating in other processes during the tender;
4) Any former employee is obligated to disclose in advance any potential conflict of interest related to the work they performed within the government institution by filling out the form under Annex 5 of this directive before submitting a bid or becoming part of a tender;
5) In accordance with sub-article (4) of this article, the former employee must disclose in advance any personal or professional relationships they have with the employees of the government institution, their involvement during their government service with the project for which the procurement is being made, their knowledge of confidential information related to the procurement, and other relevant facts;

6) Any former employee who is restricted from participating in government procurement due to their previous government work in accordance with this article shall not participate in the tender by performing the following actions:

   a) by using family members to whom the former employee provides any information or advice related to the tender,

   b) by using an enterprise in which the former employee or their family members are a director, shareholder, consultant, or employee;

7) The government institution may evaluate the level of control, influence, and access to confidential information held by the family member to determine the restrictions specified under this article;
8) The government institution must implement internal control mechanisms and whistleblowing systems to identify potential attempts to violate the Proclamation and this directive;
9) A family member who has a relationship with a former employee must disclose in advance any potential conflict of interest that may arise when participating in tenders by filling out the form under Annex 5 of this directive;
10) Failure to disclose any conflict of interest in accordance with the provisions of this article shall result in disqualification from the tender process, termination of contract, inclusion in the list of suspended bidders from future procurements, and other penalties decided by the Bureau as appropriate;
11) For the purpose of this provision, "family member" includes the following:

    a) spouse,

    b) children,

    c) parents and foster parents,

    d) brothers and sisters, and

    e) any individual who shares financial interests or significant business relationships with the former employee.

42. <u>Conditions Under Which Public Development Enterprises May Participate in Tenders</u>

1) In accordance with Article 17, sub-article (3) of the Proclamation, a public development enterprise may participate in a procurement executed by the government institution to which it reports, or by another government entity to which that government institution reports, only through competition;

2) Pursuant to sub-article (1) of this article, this provision shall also apply when government higher education institutions execute procurements from income-generating enterprises operating under them.

Section Six

Technical Specifications (Statement of Requirement)

43. Preparation of Technical Specifications

1) The government institutions must prepare detailed technical specifications in accordance with Article 18 of the Proclamation for procurements that require a detailed technical evaluation;
2) The prepared technical specifications must be based on user needs, focusing on utility, operation, technical, or design characteristics as appropriate to the type of procurement, and must be drafted in a manner that does not restrict competition;
3) The prepared technical specifications shall form part of the contract and shall be used to verify the compliance of the supply;
4) The technical specifications for the required goods, consultancy services, construction works, or non-consultancy services must be prepared jointly by the department for which the procurement is requested or by experts within the institution who possess sufficient knowledge about the procurement, along with the procurement department;
5) For complex procurements, the institution may seek the assistance of external experts or hire consultants to prepare the specifications;
6) Except as provided under Article 18, sub-article (4) of the Proclamation, technical specifications must not reference a specific manufacturer, trade service provider, or country of origin during preparation;
7) It must be ensured that the prepared technical specifications state performance values that enable the government institution to meet its current or potential future needs and exclude values that cannot be utilized;
8) To the extent possible, the government institution may include in the specifications standards and certifications issued by national standardization and quality assurance bodies or internationally recognized institutions;
9) The technical specifications must be comprehensive, prepared in detail to enable prospective bidders to compile complete and accurate bidding documents, and must form part of the bidding document;
10) The government institution must evaluate bids based on the minimum quality standards or specifications set forth in the bidding document;
11) Notwithstanding the provisions under sub-article (10) of this article, procurements that require merit-point evaluation due to their high importance and nature may be evaluated using a point system, subject to the approval of the highest official of the institution.

Section Seven

Implementing Sustainable Procurement System

44. Life-Cycle Cost Analysis

1) The Bureau shall determine the types of goods and construction works executed under this article and shall notify government institutions of the list of goods and construction works in writing;
2) When executing the procurement of goods and construction works, government institutions must take into account the procedures specified under this article to conduct the procurement based on the life-cycle cost analysis pursuant to Article 49, sub-article (8)(b) of the Proclamation;
3) Procurements executed as specified under sub-article (1) of this article must take life-cycle cost analysis into account during the procurement planning, document preparation, evaluation criteria setting, technical specifications drafting, and tender evaluation stages;
4) The government institution must prepare an appropriate life-cycle cost analysis in advance for the procurements it executes, and the analysis prepared in this manner shall be used to evaluate the life-cycle cost analysis submitted by bidders under sub-article (5) of this article;
5) The bidding document prepared by the government institution must require bidders to separately submit the total life-cycle costs in addition to the bidding price for the goods and construction works they are competing for;
6) For the implementation of this article, the life cycle of a good or construction work shall be determined in accordance with the property administration directive of the city administration;
7) The life-cycle analysis shall be implemented based on the formula set forth below; accordingly:
8) Life-Cycle Cost = Bidding Price + Sum of Life-Cycle Costs (i.e., Operational Cost + Maintenance and Spare Parts Cost + Disposal Cost) - Residual Value of the Asset;
9) For the implementation of sub-article (7) of this article:

    a) “Bidding price” means the initial procurement price of the goods and construction works;

    b) “Sum of life-cycle costs” includes the operational cost, maintenance and spare parts cost, and disposal cost from the time the good and construction work begins rendering service until the final year of the asset;

    c) “Operational cost” includes maintenance, energy consumption, and other expenses related to utilizing the asset that are necessary for the life cycle of the good or work;

d) “Maintenance/spare parts” means major recurring costs, which include replacements or repairs;

e) “Disposal cost” means the cost incurred to dispose of the asset at the end of its life cycle, from which the residual value of the asset must be deducted;

f) “Residual value” means the estimated value for which the asset can be sold when its life cycle expires;

10) The submission of life-cycle operational, maintenance, spare parts, and disposal costs by the competitor pursuant to this article is solely for the purpose of informing the government institution about the costs that the procured good or construction work will incur throughout its life cycle; the competitor shall not be deemed to have competed to perform post-sales operational, maintenance, and disposal work merely by submitting these costs;
11) The life-cycle cost submitted in accordance with this article must be reliable and verified by the manufacturer or other relevant institutions;
12) When the operational, maintenance, spare parts, and disposal costs are submitted in accordance with this article, they must be presented using appropriate interest and discount rates in a manner that takes into account the purchasing power of money at the time the expenditures occur;
13) The government institution must use the life-cycle cost analysis submitted to it under this article as a basis for evaluation during price competition;
14) The life-cycle cost analysis must be conducted by professionals with sufficient knowledge and experience;
15) Documents showing the life-cycle analysis costs submitted by competitors in accordance with this article must be requested and verified by the government institution regarding their accuracy.

45. Environmentally Friendly Government Procurement

1) Government institutions are expected to take into account the provisions specified under this article to ensure that the procurements they execute are free from environmental pollution, promote recycling, and ensure community benefit in accordance with Article 21 of the Proclamation;
2) They must include criteria in the bidding documents they prepare that can encourage products manufactured using environmentally friendly technologies, renewable energy sources, or low emissions;
3) Government institutions must follow procedures that can give priority to procuring papers, plastics, rubbers, or construction materials prepared from recycled materials;
4) Before executing procurements, government institutions must first verify that there is no alternative option to reuse existing assets;

5) The Bureau shall determine the types of goods to be procured in accordance with this article and shall notify government institutions of the list in writing; it shall also cause a standard to be issued for implementation in government procurement, based on studies conducted in collaboration with other relevant government institutions.

46. Community Benefit-Oriented Government Procurement

1) Government institutions are expected to take into account the provisions enacted under this article to ensure community benefit for the procurements they execute in accordance with Article 21 of the Proclamation;
2) Procurements executed by government institutions must take into account the positive social, economic, and environmental impacts they have on the local community;
3) Tenders in which micro and small enterprises, persons with disabilities, businesswomen's associations engaged in manufacturing, technological innovations, and job creation enterprises participate—which require special attention/incentives as enacted from Article 28 to Article 34 of this directive—must be implemented in a manner that ensures the benefit of the community.

Section Eight

Government Procurement Ethics

47. General

Any employee of the government institution participating in the government procurement process, the head of the institution, the procurement approval committee, the procurement evaluation committee, the system administrator, and bidders must respect the ethical provisions enacted under this section when performing their duties and responsibilities assigned to them under the Proclamation and this directive.

48. Maintaining Confidentiality

1) In accordance with sub-article (1) of this article, any employee of the government institution participating in the procurement process and other parties closely related to the work have a professional obligation to maintain the confidentiality and security of the information they obtain in the course of their work; for the implementation of this article, the employee, official, or committee of the government institution must perform the following:

   a) refrain from providing any information to any party that could restrict competition, grant an unfair advantage to competitors, or harm the interests of the government institution,

b) protect the decisions and information of the government institution in its dealings with suppliers during contract performance,

c) refrain from disclosing information of candidates, the evaluation process, and other information that must be kept confidential to any party before the results are announced, unless requested by an entity specifically authorized by law;

2) The government institution must establish appropriate operational procedures to ensure that maximum care is taken when information that has been made confidential pursuant to sub-article (1) of this article is utilized.

49. Avoiding Conflict of Interest

1) Employees, officials, or committee members directly or indirectly engaged in the procurement process must recuse themselves from the procurement process by giving written notice regarding the existence of a conflict of interest related to the decision to be made in connection with the work they perform, in the manner specified in the bidding document;
2) When the government institution receives information from any source indicating that an employee, official, or a committee member related to the procurement has a conflict of interest in connection with the work they perform:

   a) it shall cause the employee or official to provide their comments in writing regarding the presented conflict of interest issue,

   b) based on the written comments provided pursuant to sub-article (2)(a) of this article and by gathering additional information through means it deems appropriate, it shall decide whether or not the employee, official, or the committee member related to the procurement has a conflict of interest in connection with the procurement work they hold,

   c) when the government institution verifies the existence of a conflict of interest in connection with the procurement work performed by the employee, official, or the committee member related to the procurement as set forth under sub-article (2)(b) of this article, it shall cause the employee, official, or the committee member related to the procurement to be recused from the process, cause matters that were decided with their participation to be re-examined, and take administrative measures against the employee or the official of the institution unless it believes that the failure to disclose the conflict of interest was due to a lack of awareness;

3) Employees of the government institution or officials of committee members related to the procurement who have a direct or indirect participation in government procurement must

not accept any type of gift from a third party that influences or could influence their procurement work;

4) In accordance with sub-article (3) of this article, employees or officials of the government institution or a committee member related to the procurement must take the following and other related precautionary measures:

a) Refrain from accepting gifts that have monetary value, particularly from an entity that is a candidate bidder for the government institution,

b) Refrain from accepting employment opportunities for themselves or their family,

c) Refrain from accepting special price discounts or services for personal procurement from an entity that is a supplier/candidate bidder for the government institution,

d) Refrain from accepting invitation programs that could influence the work.

50. Fairness

1) Any employee of the government institution participating in the procurement process and other bodies must serve competitors equally and free from any influence;
2) Any employee or official of the government institution or a committee member related to the procurement who directly or indirectly participates in government procurement work must not perform any act that prevents candidate bidders from having an equal opportunity to compete and execute a contract;
3) For the implementation of sub-article (2) of this article, the following actions must be performed:

a) Ensuring that all candidate competitors receive sufficient information during the invitation to tender, and ensuring that the prepared bidding document contains complete and clear information that enables participation in the tender and the preparation of an acceptable bidding document,

b) Ensuring that any competition criteria or technical specification details set forth in the bidding document are not prepared in a manner that benefits a specific candidate competitor,

c) Ensuring that the tender results are disclosed to all participants at the same time,

d) Ensuring that the responsibilities assigned to suppliers during contract document preparation are not intended to intentionally ease or burden their obligations and, to the extent possible, ensuring that contracts prepared for suppliers signing similar agreements have similar content,

e) Ensuring that payment, monitoring, information exchange, and similar activities are applied equally to all suppliers during contract performance;

4) An employee or official of the government institution must report corrupt practices that have occurred or are intended to occur, which they have observed in the course of their work, to the relevant body, ensuring that the tip-off is supported by evidence, and must protect themselves from any act that could support the intended corrupt practice.

51. Transparency

1) All procurement processes conducted by any employee of the government institution and other bodies participating in the procurement process must be carried out in a fair and transparent manner, which must ensure equal opportunities for all bidders and maintain clear communication throughout the process;
2) With respect to the provisions of sub-article (1) of this article, this includes disclosing necessary information, ensuring open competition, and eliminating any discriminatory practices.

52. Competence

1) Any employee of the government institution and other bodies participating in the procurement process must possess the knowledge, skill, and experience that enables them to competently discharge their procurement-related duties;
2) Any employee of the government institution and other bodies participating in the procurement process must apply the knowledge, skill, and experience permitted by the profession when performing their work;
3) Any employee of the government institution and other bodies participating in the procurement process must periodically improve their competence, effectiveness, and the quality of their services;
4) Based on the detailed provisions specified under this directive, any employee of the government institution and other bodies participating in the procurement process must execute procurements by conducting complete procurement needs assessments, properly issuing and evaluating tenders, eliminating wasteful procurement, and fulfilling quality and performance standards so as to achieve the maximum value for money for the government.

Chapter Four
Procurement Methods

53. Authorized Procurement Methods

The following procurement methods shall be utilized in the execution of procurement by any government institution:

1) Open Tender;
2) Tendering conducted through screening:

   a) Two-stage tendering procurement,

   b) Pre-qualification tendering,

   c) Request for expressions of interest tendering;

3) Limited Tender; and

   a) Restricted tendering,

   b) Procurement executed through price quotations;

4) Direct Procurement;

Section One

Open Tender

54. National Open Tender

1) In accordance with Article 29, sub-article (2) of the Proclamation, a government institution using procurement methods other than open tender must retain a document stating the reasons and conditions for choosing to use those methods;
2) Government institutions may utilize national open tender when:

   a) It is verified that the required goods, construction works, other services, and consultancy services can only be supplied domestically, without any financial limitation,

   b) The procurement can be fulfilled by domestic bidders and the estimated value does not exceed the following monetary amounts:

3) For the construction work sector, up to Birr 3,000,000,000.00 (three billion Birr)

4) For goods procurement, up to Birr 1,000,000,000.00 (one billion Birr)
5) For consultancy service procurement, up to Birr 90,000,000.00 (ninety million Birr)
6) For non-consultancy service procurement, up to Birr 250,000,000.00 (two hundred fifty million Birr)
7) Unless the Bureau permits otherwise, government institutions must use the standard bidding document prepared within the government electronic system to execute procurement through the open tender method; however, institutions that have not yet integrated into the electronic system may use other operational procedures as necessary;
8) Government institutions must use the standard bidding document prepared by the Bureau to execute procurement through the national open tender method;
9) Unless specifically permitted otherwise under the Proclamation and this directive, bidders participating in a national open tender shall be domestic bidders only;
10) For the implementation of sub-article (5) of this article, "domestic bidder" means a bidder established and commercially active under Ethiopian law, possessing a business registration, tax identification number, and a business license, regardless of the nationality of the bidder or its shareholders.

55. International Open Tender

1) Procurement executed through international open tender must be conducted in accordance with Article 29, sub-article 3 of the Proclamation.
2) Government institutions may execute procurement through the international open tender method only when the estimated value of the procurement exceeds the following monetary amounts:

   a) For the construction sector work, above Birr 3,000,000,000.00 (three billion Birr),

   b) For goods procurement, above Birr 1,000,000,000.00 (one billion Birr),

   c) For consultancy service procurement, above Birr 90,000,000.00 (ninety million Birr),

   d) For non-consultancy service procurement, above Birr 250,000,000.00 (two hundred fifty million Birr);

3) Even if the estimated monetary amount of the procurement falls within the financial limits set for national open tender, government institutions may execute procurement through the international open tender method pursuant to Article 29, sub-article 3(b) of the Proclamation when it is believed that the process would not be effective unless foreign bidders participate;
4) Bidders participating in goods procurement executed through international open tender must, if they are not the manufacturers of the goods themselves, submit evidence verifying

that the supplied goods originate from the manufacturer when requested by the institutions as necessary;

5) If a foreign bidder has a domestic agent in the international tender process, the agent is expected to provide legal evidence of power of attorney showing that authorization has been granted, as well as specify the distinct type of work authorized under the power of attorney;
6) In accordance with Article 29, sub-article (6) of the Proclamation, the Bureau, in collaboration with relevant bodies, shall determine the trade terms and conditions applicable to international procurement by taking current realities into account, and shall announce periodic updates.

56. International Open Tender Execution

In addition to the detailed tender procedural execution specified for national open tenders in this directive, procurement conducted through international open tenders must include the following:

1) The invitation to tender notice and the bidding document must be prepared in the English language;
2) The invitation to tender must be published on the government electronic procurement system;
3) Bidders must be granted sufficient time to prepare appropriate bidding documents in accordance with what is specified under Annex Number 6 of this directive;
4) The technical specifications prepared must fulfill domestic standards and, to the extent possible, be internationally acceptable;
5) The bidding price and bid security submitted by foreign bidders must be in a currency that is easily convertible and utilized in international trade;
6) Without prejudice to the chosen trade term specified under this article, when domestic and foreign bidders compete in an international open tender, the competition should be conducted by including taxes and duties, insurance, transportation costs, and other related fees and expenses incurred from the port of destination up to delivery to the government institution, as necessary;
7) When foreign bidders utilize domestic inputs to fulfill the procurement requirement, the amount to be paid in Birr out of the total contract payment must be indicated on the price schedule;
8) Unless specified otherwise in other agreements, disputes arising during contract performance must be adjudicated under Ethiopian law.

57. Other International Procurements

1) When it is believed that sufficient and effective competition cannot exist unless foreign bidders participate, international procurement can be executed using tendering conducted

through screening, limited tendering, and direct procurement methods, without prejudice to other procedures specified for national and international open tenders under the Proclamation and this directive as necessary;

2) Without prejudice to the provisions under sub-article (1), procurements executed outside of international open tenders shall be subject to verifying that the following conditions are met:

a) That the prerequisites and monetary thresholds set for each procurement method are fulfilled, unless explicitly permitted otherwise under the Proclamation and this directive,

b) When it is believed that executing the procurement internationally outside of an open tender is viable in terms of time and quality,

c) That the procurement process is executed following the open tender procedures and the provisions of Section Three, Article 62 of this directive,

d) When it is verified that there is a compelling reason making it impossible to execute the procurement domestically.

Section Two

Tendering Conducted Through Screening

58. Execution of Tendering Conducted Through Screening

1) The procurement method of tendering conducted through screening is a procurement method in which the winning bidder is selected from among competitors by filtering bidders wishing to participate in the tender through a competition of more than one stage and inviting the bidders who passed the first stage to the next round of competition; it includes pre-qualification tendering, request for expressions of interest tendering, and two-stage tendering;
2) Institutions may select bidders by issuing a screening tender and awarding the bidder who has submitted a bidding document capable of meeting their needs, following the provisions listed under Article 26 sub-article 2 from letters (a) to (d) of the Proclamation.

59. Pre-Qualification Tendering

1) When the government institution believes that it must conduct an evaluation to verify the qualification of competitors in advance due to the specific nature of the procurement, it may issue a national or international pre-qualification tender depending on the type of procurement;

2) Procurements that require a pre-qualification tender must fulfill at least one of the following conditions:

   a) When it is a procurement of construction, manufacturing equipment, or technology that has a very high value or is complex in nature, involving design, manufacturing, and installation work that must be completed by a single enterprise, or

   b) When the quality and utility of the supplied goods or equipment are highly critical and include installation services, or

   c) When it is believed that only bidders whose qualifications are verified through pre-qualification assessment should participate in the competition because the procurement requires a high cost to prepare a bidding document,

3) The notice must state that the tender is an invitation for pre-qualification tendering;
4) The bidding document prepared to conduct the pre-qualification evaluation shall be based on the standard pre-qualification bidding document prepared by the Bureau; although the pre-qualification selection criteria may vary depending on the nature and type of the procurement, the evidence requested from the competing enterprises must include the following conditions:

   a) The experience of the enterprise in similar construction work or goods manufacturing,

   b) That the enterprise possesses sufficient manpower, machinery, manufacturing capacity, and complete infrastructure to execute the construction work or manufacture the goods,

   c) The number or volume of construction work currently being performed or goods currently being manufactured by the enterprise,

   d) That the enterprise has sufficient financial capacity and a good reputation to complete its contractual obligations,

5) The evaluation of bidders shall be conducted based on the criteria prepared by the government institution for pre-qualification verification;
6) All bidders who applied for the pre-qualification competition must be allowed to participate in the next competition without any numerical limitation, provided they meet the evaluation criteria;
7) Government institutions may permit enterprises participating in the pre-qualification competition to compete as a partnership or jointly; however, unless the institution believes that it will not narrow the competition in the procurement process, competitors who individually passed the pre-qualification competition should not be permitted to submit the bidding document jointly or as a partnership;

8) Bidders who applied for the pre-qualification competition jointly or as a partnership and passed and were selected for the next tender based on an evaluation conducted on that basis shall not be permitted to compete individually in the tender;
9) As soon as the pre-qualification evaluation result is known and accepted by the institution, the result must be disclosed to both the selected and non-selected bidders to participate in the tender;
10) Even if a bidder is able to win based on an evaluation conducted on a tender issued following a pre-qualification tender, the government institution shall not permit the bidder to sign the contract if it is sufficiently verified during post-qualification that the information provided during the pre-qualification competition was incorrect or that the bidder is unable to perform the contract as expected due to the absence of the qualification it possessed during the pre-qualification competition;
11) The prepared bidding document shall be sent to the bidders accepted in the pre-qualification verification competition at their respective addresses using the electronic communication method or other operational systems as necessary, and the remaining procurement execution shall be performed following the procedure set forth for national and international open tenders in this directive.

60. Two-Stage Tendering

1) Without prejudice to the provisions of Article 26, sub-article (2) of the Proclamation, procurement executed through two-stage tendering shall be performed within the government procurement system through the electronic platform or, as necessary, through other operational systems following the procedures established for national or international open tenders depending on the type of procurement;
2) Without prejudice to the provisions of sub-article (1) of this article, the execution of the tender conducted in the first round shall be implemented based on the following conditions:

   a) It must be disclosed in the invitation to tender notice that the procurement is to be executed through a two-stage tender,

   b) Candidate competitors participating in the first round of the tender shall not be required to submit a bid security or a price,

   c) The document prepared for the procurement shall express the general needs of the government institution, and its objective must include necessary questionnaires and descriptions that enable the preparation of a detailed statement of requirements based on the proposals submitted by candidate competitors, as well as criteria to identify bidders passing to the second round, and it must be published on the government electronic procurement system or other operational systems as necessary,

d) The technical proposal submission document presented by the candidate competitors shall be opened on the date and time specified in the invitation to tender,

e) It must enable the examination of proposals submitted by candidate competitors to identify the statement of requirements to be used for the second round of the tender and the bidders who should participate in the tender,

f) During the evaluation, the government institution may hold discussions with all, some, or a specific candidate competitor as necessary,

g) The discussions conducted as specified under letter (f) of this sub-article must aim to further clarify the proposals submitted by candidate competitors and to generate better-developed concepts.

3) The bidding document prepared for the second round must be sent to the invited participants at their respective addresses using the electronic system or other operational systems as necessary; furthermore, it shall follow the procedures below:

a) When bidders accepted in the first round participate in the second round of competition, they shall be made to submit a competitive proposal, including a bid security and price, on the government electronic procurement system or other operational systems as necessary,

b) The invitation transmitted to the selected candidate competitors as specified under sub-article (3)(a) of this article must clearly indicate the bid submission period, bid opening time, and other conditions they must fulfill.

61. Request for Expressions of Interest Tendering

1) Government institutions must execute consultancy services or intellectual professional service works in accordance with the provisions of this article;
2) When the estimated value of the consultancy service to be purchased by the government institution exceeds Birr 7,000,000.00 (seven million Birr), it must issue a request for expressions of interest to candidate competitors interested in engaging in the supply of the consultancy service;
3) To enable bidders to obtain information to submit their expressions of interest, the institution shall prepare a Terms of Reference (ToR) detailing the background, objective, goal, and scope of the consultancy service, as well as other descriptions necessary for the service;
4) The invitation for the expression of interest must take into account the following:

a) The request for expression of interest must specify the type of consultancy service required, expected outputs, timeframe, required qualifications of the consultant, work

experience, and similar details, along with a list of information that candidate competitors must submit, and the place and time of submission,

b) Based on the evaluation criteria set forth in the request for expression of interest, select the better-qualified consultants from among those who expressed interest and notify the bidders who submitted their interest based on the prerequisites and required points specified in the bidding document,

c) The information submitted by competitors who expressed interest shall be evaluated, and to the extent possible, no fewer than three and no more than seven candidate competitors who possess the highest competence shall be selected in order of their ranking and made to submit their competitive proposals in accordance with the request for proposals tender execution procedures;

5) Pursuant to sub-article (4)(c) of this article, a selection made based on the competence of consultants must, to the extent possible, be executed following the request for expressions of interest tender procedures in a manner that achieves the required quality and economic benefit for the government institution and encourages competition;
6) Without prejudice to the provisions set forth regarding the selection methods for consultancy service procurement, the detailed evaluation and scoring of consultants shall be executed following the detailed tender procedural execution provisions of this directive and the standard bidding document issued by the Bureau for this purpose;
7) The institution must simultaneously transmit the invitation to the selected consultants at their respective addresses to submit their competitive proposals; when the institution believes that the bidding document prepared for the procurement should be given free of charge, it may send it along with the invitation;
8) The negotiations conducted by the government institution with the selected consultant must not alter the essential content of the tender and the quality of the work, and should focus on the scope of the work, the operational methodology, the personnel and equipment to be deployed for the work, reporting schedules, and content, and similar matters;
9) Negotiations conducted pursuant to sub-article (8) of this article must not prejudice the interests of the government institution or grant an unfair advantage to the selected consultant over other bidders;
10) Without prejudice to the selection methods specified under sub-article (12) of this article, other tender execution processes shall be carried out following the open tender procedures specified in this directive;
11) For procurements executed through the selection methods specified under sub-article (12) of this article, the submitted bidding document must be presented in two separate sealed envelopes for the technical and financial proposals, and the selection criteria and evaluation prepared for the consultancy service shall be executed following the procedures specified in this article;

12) The procurement of consultancy services must be implemented by following selection methods based on quality and cost, quality alone, fixed budget, least cost, or consultants' qualifications, or a single-source selection method, as appropriate;
13) Pursuant to sub-article (12) of this article, when government institutions implement a quality and cost-based selection, they must take into account the following criteria when preparing the bidding document, and must allocate 100 (one hundred) points when evaluating and comparing each technical proposal submitted by candidate competitors:

    a) Specific experience of the consultant.....5 to 10 points,

    b) Proposed methodology for the assignment……... 20 to 50 points,

    c) Key professionals participating in the consultancy service.....30 to 60 points,

    d) Knowledge transfer capability…….. 5 to 10 points,

    e) Participation of Ethiopians, in the case of a foreign firm.....5 to 10 points

14) The criterion and points specified under sub-article (13)(d) of this article shall not apply to engineering and construction-related consultancy services; however, when the government institution believes that the knowledge derived from consultancy services provided in this manner should be viewed as a criterion for the government institution, the criterion and evaluation points can be utilized;
15) The criterion and points specified under sub-article (13)(e) of this article shall apply only to consultancy service procurements where a foreign firm participates;
16) To implement the quality and cost criteria specified under sub-article (13) of this article, the institution must follow the following evaluation process to select the submitted consultants:

    a) Competitors who score less than 70% (seventy percent) out of the one hundred points allocated for the technical qualification assessment in accordance with sub-article (13) of this article shall be disqualified, and the financial proposals of competitors who score 70% and above shall be opened;

    b) The scores of competitors who achieve seventy percent (70%) and above in the technical evaluation pursuant to letter (a) of sub-article (14) of this article shall be converted to 80% (eighty percent), and this shall be added to the 20% (twenty percent) share allocated for the financial evaluation points out of a total of one hundred;

    c) Except when the consultancy service is obtained from foreign consultants, the price submitted by domestic and foreign consultants may include transportation, translation, clerical work costs, and similar expenses for evaluation purposes;

d) After conducting the scrutiny for unbalanced and exaggerated prices as enacted under Article 121 of this directive, full points shall be awarded to the lowest bidding price, while fewer points shall be given to the competitor who submitted a relatively higher price; the points obtained by other competitors shall be determined by calculation based on their submitted prices;

e) The competitor who obtains the highest total point score by adding the points allocated for the technical qualification level and the financial proposal shall be selected as the winner of the tender;

f) The procurement of consultancy services executed through an international open tender must additionally base its execution on the procurement implementation process specified for a national open tender in this directive;

17) Pursuant to sub-article (12) of this article, selection based on the quality of work may be utilized by government institutions when the consultancy service fulfills the following conditions:

a) When it is impossible to prepare a complete reference document or Terms of Reference (ToR) for the specific procurement because the consultancy service is complex and requires specialized professional competence, or when it is impossible to distinctly identify the type of consultancy service derived from the consultant, or when the consultant must submit a competitive proposal utilizing their own creativity;

b) When it involves high-level matters where it is essential to secure highly capable consultants and where their future performance is of critical concern;

c) When it is believed that it would be difficult to evaluate the submitted proposals under identical conditions because the consultancy service can be supplied through various alternative ways;

18) The institution must follow the following evaluation process to select the submitted consultants for the criteria referenced under sub-article (17) of this article:

a) Bidders shall be made to submit their technical and financial competitive proposals separately, and only the document containing their technical competitive proposal shall be opened first;

b) The bidder who achieves the highest score in the technical evaluation pursuant to sub-article (17) of this article shall be selected as the winner of the tender;

c) The institution shall open the financial proposal of only the bidder who wins the technical evaluation and shall sign the contract if it does not exceed the budget allocated by the institution for the assignment;

d) If the price submitted by the bidder who wins the competition exceeds the budget allocated by the institution for the assignment, and the price submitted by the bidder who ranks second in the technical evaluation aligns with the budget allocated by the institution for the assignment, the procurement may be executed from the bidder who ranks second;

e) As soon as the contract agreement is signed with the winning bidder of the tender, the financial proposals of the other competitors must be returned to the bidders without being opened;

19) Pursuant to sub-article (12) of this article, selection conducted based on a fixed budget may be utilized by government institutions when the consultancy service fulfills the following conditions:

a) Selection conducted based on a fixed budget may be utilized only when the required consultancy service lacks complexity, can be accurately described, and the budget authorized for the specific assignment has a ceiling;

b) The technical evaluation shall be executed following the procedural systems contained within the provisions of sub-articles (13) and (16) of this article;

c) Bidders who submit prices higher than the monetary amount authorized for the tender shall be excluded from the tender;

d) The bidder who submits a price not exceeding the monetary amount authorized for the tender and achieves the highest total combined score of the technical and financial evaluation shall be selected as the winner of the competition, and negotiations that do not increase the price may be conducted as necessary;

20) Pursuant to sub-article (12) of this article, government institutions may utilize selection based on the least cost when the consultancy service fulfills the following conditions:

a) This selection method may be utilized only when the purchased consultancy service does not require specialized expertise from the professional, involves a small monetary amount, is non-complex and standardized, or can be executed through a similar and uniform procedure;

b) When institutions wish to evaluate bidders using this selection method, they must determine the minimum technical qualification score and clearly indicate this specific score

on the request for proposals document issued to selected bidders from among suppliers registered on the government electronic procurement system;

c) The technical evaluation must be conducted by causing the competitive documents containing the technical proposals to be opened;

d) Competitors who fail to meet the minimum standard set for technical qualification in the evaluation results shall be excluded from the tender;

e) Bidders who fail to achieve the minimum score qualifying them for the price competition in the technical qualification evaluation must have their financial competitive documents returned without being opened;

f) The financial competitive documents of the competitors who pass to the price competition based on their technical evaluation results shall be opened;

g) The price submitted by bidders must be made known to the bidders present at the opening ceremony;

h) The bidder who quotes the lowest price from among the competitors who fulfill the minimum standard set for qualification in the technical evaluation shall be selected as the winner of the competition;

21) Pursuant to sub-article (12) of this article, government institutions may utilize selection based on consultants' qualifications when the consultancy service fulfills the following conditions:

a) This method may be utilized when the time and cost required to prepare and evaluate competitive proposals are disproportionate to the assignment because the work given to the consultant is small, or when executing the procurement through competition is not justifiable due to the occurrence of an emergency situation;

b) This method shall be utilized only when the cost of the consultancy service does not exceed Birr 1,000,000.00 (one million Birr);

c) The institution must transmit a request for expressions of interest to candidate competitors by preparing a reference document or Terms of Reference (ToR) that requires the consultant to state their work experience and competence level;

d) This shall be implemented based on an agreement reached by negotiation and by requiring the candidate competitor selected as the better choice in an evaluation conducted based on the expression of interest data submitted by candidate competitors to present their technical and financial proposals together;

22) Pursuant to sub-article (12) of this article, government institutions may execute a consultancy service procurement from a single consultant only when it is verified that the conditions specified under Article 28 of the Proclamation as well as Article 66 of this directive are fulfilled;
23) When government institutions execute the procurement of consultants under any selection method, they must do so based on the criteria enacted under sub-article (13) of this article when preparing the bidding document and when evaluating and comparing each technical proposal submitted by candidate competitors.

Section Three

Limited Tender

62. Execution of the Limited Tender Procurement Method

1) The limited tender procurement method is a procurement method in which the winning bidder is selected by evaluating competitors invited directly to their addresses through the electronic system or, as necessary, by letter without the need to publish a public tender notice;
2) In accordance with Article 27, sub-article (2) of the Proclamation, the limited tender procurement method must be executed either through a restricted tender or through price quotations.

63. Restricted Tender Procurement

1) Without prejudice to Article 27 of the Proclamation, procurement executed through a restricted tender shall be carried out following the procedures established for national or international open tenders in this directive, depending on the type of procurement;
2) To utilize a restricted tender, one of the following conditions must be fulfilled:

a) When there is evidence showing that the goods, construction sector work, consultancy service, or other services are available only from a limited number of suppliers, by inviting all such suppliers,

b) When a public tender notice has been issued at least once to execute the procurement and no bidder participated, or the participating bidders failed to meet the technical criteria prepared by the institution,

c) Although the number of suppliers capable of participating in the tender is large, the total estimated value of the goods, consultancy service, construction sector work, or service to be purchased does not exceed the threshold set under sub-article (8) of this article,

d) Even if the estimated monetary amount of the procurement exceeds the threshold set under sub-article (8) of this article, when it is necessary to purchase hotel services, or building rental services capable of meeting office and warehouse needs, by inviting limited suppliers selected based on a market survey,

3) The invitation to tender and the bidding document prepared for the procurement must be delivered to the invited bidders at their respective addresses;
4) Pursuant to sub-article (2)(b) and (c), to execute procurement through a restricted tender, at least five candidate competitors engaged in the sector must be selected from among those registered on the government electronic procurement system;
5) The government institution must not disclose the identities of the bidders invited to a restricted tender to other candidate competitors;
6) If all candidate competitors invited to the restricted tender submit their bidding documents before the bid validity period expires or notify that they cannot participate in the tender, the government institution, without needing to wait for the expiration of the deadline, may notify all bidders of the new bid opening time using the electronic procurement system or other operational systems as necessary, and cause the tender to be opened by inviting them to be present;
7) When the government institution believes that requesting a bid security will prevent the limited number of bidders from participating in the tender competition, it may cause the candidate bidders to sign and submit a bid commitment form along with their bidding documents in lieu of a bid security, without requiring them to furnish a bid security;
8) Procurement executed through a restricted tender in accordance with this article may be utilized only when the estimated value of the goods, consultancy service, construction sector work, or service to be purchased does not exceed the following:

   a) For construction work sector procurement, up to Birr 100,000,000.00 (One Hundred Million Birr),

   b) For goods procurement, up to Birr 15,000,000.00 (Fifteen Million Birr),

   c) For consultancy service procurement, up to Birr 12,000,000.00 (Twelve Million Birr),

   d) For other service procurement, up to Birr 9,000,000.00 (Nine Million Birr);

9) Notwithstanding the provisions under sub-article (8) of this article, in a construction work contract where the government institution is responsible for supplying construction materials, the monetary ceiling authorized for construction work procurement shall apply to the procurement of such construction materials;
10) Consultancy service procurement executed through a request for proposals under a limited tender must follow the additional procedures specified for the execution of a request for proposals tender;

11) The Bureau may amend the ceiling set under sub-article (8) of this article by taking current realities into account.

64. Procurement Executed Through Price Quotations

1) In accordance with Article 27, sub-article (5) of the Proclamation, institutions may execute the procurement of goods, construction works, or consultancy services and other services that cannot be put into immediate use or purchased in bulk, or those that are off-the-shelf or have an established market, through price quotations;
2) In accordance with Article 27 (4) of the Proclamation, procurement through price quotations must be executed by making it open to all competitors on the electronic procurement system. However, if it is verified by the highest official of the institution that it is impossible to execute the procurement in this manner, the procurement must be executed by inviting no fewer than three competitors;
3) Procurements executed through price quotations that do not exceed the following monetary thresholds may be approved by the highest official of the institution or based on the delegation given by him, and executed without the need to submit them to the procurement approval committee:

   a) For construction work sector procurement, up to Birr 2,000,000.00 (Two Million Birr),

   b) For goods procurement ..... up to Birr 800,000.00 (Eight Hundred Thousand Birr),

   c) For consultancy service procurement, up to Birr 500,000.00 (Five Hundred Thousand Birr),

   d) For service procurement, up to Birr 600,000.00 (Six Hundred Thousand Birr);

4) Notwithstanding the provisions under sub-article (3) of this article, in a construction work contract where the government institution is responsible for supplying construction materials, the monetary ceiling authorized for construction work procurement shall apply to the procurement of such construction materials;
5) The Bureau may amend the ceiling set under sub-article (3) of this article by taking current realities into account;
6) When the government institution executes procurement through price quotations, the suppliers participating in the competition must be from among those registered on the government electronic system, and the invitation transmitted for competition must be to no fewer than three competitors to the extent possible; however, if the number of competitors is fewer than three, the approval of the highest official of the institution must be obtained;
7) The identities of the suppliers invited by the institution must not be disclosed to other invited suppliers;

8) To ensure fairness in the execution of the price quotation competition, the government institution must follow the following procedures:

   a) It must not repeatedly invite only one or specific suppliers from among those registered on the government electronic procurement system, unless it is verified that all participants have been given an opportunity to compete in rounds and that a specific distinct condition beneficial to the institution exists,

   b) It must follow procedures that can prevent potential collusion during the process of submitting price quotations and determining prices, and the price must include tax. However, if it is not specified whether the price submitted by the bidder includes tax, it shall be deemed to include tax;

9) Each candidate competitor shall be permitted to submit only one competitive price, and they shall not be permitted to alter the price they have submitted; no negotiations of any kind may be conducted between the government institution and the candidate competitor regarding the competitive price given by the candidate competitor;
10) Notwithstanding the provisions under this article, missions located abroad that are authorized by the Ministry of Foreign Affairs upon determining the necessity may execute a one-time procurement through price quotations collected in the country where the missions are located, provided the procurement value does not exceed 30,000 (thirty thousand) US Dollars;
11) By comparing supplies that have comparable quality levels and fulfill the quality standards required by the institution, the price submitted by the winning bidder must be an average price that aligns with the current market price data published by the Ethiopian Statistics Service;
12) With respect to the provisions under sub-article (11) of this article, if current market price data cannot be obtained from the Ethiopian Statistics Service, it must select as the winner the bidder who has submitted the lowest competitive price that is close to the price of a known manufacturer or, according to instructions issued by the Bureau, to the results of a centrally conducted market price study, in that order of priority;
13) Government institutions must use the price quotation bidding document prepared by the Bureau for any procurement executed through price quotations;
14) For procurements executed through price quotations, the competitive price given by the supplier and the notice of the purchase order issued by the institution to the supplier shall be deemed to constitute a contract. However, the institution may execute a detailed contract based on the nature of the procurement as necessary;
15) Government institutions may not split procurements that should be executed together as a single package for the purpose of executing them through price quotations;

16) When it is believed that it is necessary to extend the deadline for which the tender remains open to bidders set for procurement executed through price quotations, the government institution may extend the time.

65. Procurement Executed Through Price Quotations to Meet Special Needs

1) Notwithstanding the provisions under Article 63, sub-article (2) of this directive, government institutions may execute procurement through the price quotation method without financial limitations when the conditions specified under sub-articles (2), (3), and (4) of this article are fulfilled;
2) In accordance with Article 27, sub-article (7) of the Proclamation, institutions may execute procurement through price quotations due to their specific distinct nature of work when the following conditions are met:

   a) when the procurement involves inputs required for study and research, or inputs utilized for medical devices services, or goods with a short shelf-life, or

   b) when the goods or equipment to be purchased must be executed while maintaining their confidentiality, and

   c) when it is believed by the highest official that executing the procurements through price quotations is viable in terms of quality, time, and results in accordance with this article;

3) In accordance with Article 27, sub-article (6) of the Proclamation, educational institutions under the city administration may purchase commodities utilized for students' catering services through the price quotation procurement method either on a one-time basis or through a framework agreement contract as appropriate;
4) For the implementation of sub-article (3) of this article, without prejudice to the applicability of Article 67, sub-article (4) of this directive, the following conditions must be fulfilled:

   a) To execute the procurement of food commodities produced by more than one domestic manufacturer, such as sugar, pasta, oil, and tea leaves,

   b) To execute the procurement of various grains and pulses from the grain trade enterprise or multipurpose farmers' cooperative unions,

   c) To purchase food commodities that are not produced by domestic manufacturing companies and are imported into the country by various importing and distributing enterprises,

d) To verify through a market survey conducted by the institution that it is better in terms of time, price, or supply to execute the procurement in accordance with letters (a), (b), and (c) of this sub-article.

Section Four

Direct Procurement

66. Basic Procedures for Direct Procurement

1) The decisions made by government institutions to execute direct procurement in accordance with Article 28 of the Proclamation must be based on the conditions set forth under this article;
2) In accordance with Article 28, sub-article (1)(f) of the Proclamation, when it is believed to be beneficial to purchase goods, consultancy services, and other services that are identical in type and price from a supplier who previously provided them, it is possible to execute supplementary procurement based on the willingness of the supplier and by following the procedures below:

   a) The volume of the supplementary goods, consultancy services, or other services ordered must not exceed 25% (twenty-five percent) of the total contract price,

   b) To order supplementary procurement in accordance with letter (a) of this sub-article, it must be during the period when the previous procurement contract remains valid, or within the next 9 (nine) months from the date the contract was completed,

   c) When procurement is executed on this basis, it is not permitted to make a price increase greater than the unit price that existed in the initial contract,

   d) Notwithstanding the provisions under letter (c) of this sub-article, if the initial contract permits price adjustments and a price adjustment has been made, it shall be based on the adjusted price;

3) Government institutions, after verifying that the following conditions are met as specified under Article 28, sub-article (1)(e) of the Proclamation, may contract out additional construction works that were unforeseen and not included in the initial contract:

   a) The government institution must verify that the works intended to be executed additionally should have been included in the initial contract or would have better economic benefit if integrated with the main work, and that contracting the works separately would be difficult for execution or would prejudice the economic interest of the institution,

b) The monetary amount of the newly executed construction works that are supplementary or were not included in the main work must not exceed 30% (thirty percent) of the total price of the initial contract,

c) If the unit price of the additionally ordered construction works can be found in the contract, the supplementary work shall be executed based on the unit price in the contract or, if a price adjustment has been made, based on the adjusted price; if the unit price cannot be found in the contract, the institution must verify that the price reached through negotiation is a market price;

4) In accordance with Article 28, sub-article (1)(d) of the Proclamation, when it is necessary to purchase matching items or spare parts or additional services for previously purchased goods or non-consultancy services, and it is mandatory to purchase these matching items, spare parts, or additional services from the initial supplier because purchasing them from another competitor would cause incompatibility with the goods or services utilized by the government institution, direct procurement may be executed;
5) When they are unavailable from regular suppliers, a picking procurement may be executed by following the procedures below in accordance with Article 28, sub-article (1)(g) of the Proclamation:

a) A memorandum explaining the reason that necessitated executing the procurement by picking must be submitted to and approved by the highest official of the institution or the body delegated by the official for this task,

b) Government institutions shall designate a temporary committee consisting of no fewer than three members by letter for executing the picking procurement; to the extent possible, an employee who has knowledge about the good to be purchased must be made a member of the committee,

c) The established temporary committee must carry out the procurement jointly and must select the place and time where there will be sufficient supply to carry out the procurement,

d) The temporary committee, by acting jointly, shall select the seller or sellers who have better quality and price from the available supply, negotiate the price, and execute the procurement,

e) The quantity and type of procurements executed during the procurement implementation process, the place and time the transaction was executed, the amount of money paid, the full names and addresses of the sellers, as well as other required conditions must be included and the sellers must be made to sign and verify on the contract document format prepared by the Bureau for this purpose,

f) Procurements purchased by picking must be handled carefully so that they are not damaged or lost during transportation, and the relevant department must be made to receive them as quickly as possible,

g) The temporary committee must prepare minutes describing the overall execution of the picking procurement, sign it, and submit a report to the highest official of the institution or to the body delegated by the official for this task,

h) After the procurements executed by picking are completed, the procurement information must be made public using the government electronic procurement system;

6) When government institutions execute minor procurements that have small monetary amounts in accordance with Article 28, sub-article (1)(g) of the Proclamation, they must follow the conditions specified below:

a) Government institutions may execute minor procurements from any selling enterprise for goods or services not included in the procurement plan whose value does not exceed Birr 50,000 (fifty thousand) or minor procurements related to resolving problems encountered during travel; however, the sum of minor procurements executed in this manner within a single fiscal year must not exceed Birr 1,000,000 (one million Birr),

b) Notwithstanding the provisions under letter (a) of this sub-article, missions located abroad may directly execute urgent procurements that could not be included in their procurement plan from any selling enterprise, provided it does not exceed 300 (three hundred) US Dollars per single purchase order; however, the sum of minor procurements executed in this manner within a single fiscal year must not exceed 6,000 (six thousand) US Dollars;

7) In accordance with Article 28, sub-article (1)(q) of the Proclamation, to execute procurement from a government budgetary institution by covering the costs for their goods and service procurement needs, government institutions must verify that the conditions listed below are fulfilled:

a) When it is difficult to execute through other procurement alternatives and there is a sufficient reason explaining that it is viable for the institution,

b) When the price paid for the procurement is better compared to the market price,

c) When the procurement is non-recurring,

d) The supply provided must not be a product manufactured or a service rendered for profit;

8) In accordance with Article 28, sub-article (1)(v) of the Proclamation, for inputs utilized for study and research or medical devices services, which cannot be obtained through competition due to their specific distinct nature of work, as well as procurements that must be executed while maintaining their confidentiality, they may execute the procurement directly by verifying that the conditions listed below are fulfilled:

   a) When executing the procurement through competition outside of this procurement method is impossible or creates a difficult condition,

   b) When the procurement involves equipment and related inputs utilized for study and research or for medicinal and medical services,

   c) When the purchased goods or equipment have a short shelf-life or must be executed while maintaining their confidentiality;

9) In accordance with Article 28, sub-article (1)(t) of the Proclamation, to execute procurements that are identical in type and price to goods or non-consultancy services previously purchased by another government institution through the open tender procurement method, the following prerequisites must be fulfilled:

   a) When the procurement intended to be executed by the government institution does not exceed the volume of the procurement previously executed by the other government institution, is identical in type and price, and is viable compared to the current market price,

   b) It must be supplied without making alterations to the quality standard (specification) under which the supplier competed, won, and entered into a contract in the previously issued tender,

   c) When the executed procurement does not exceed the procurement previously executed by the other government institution,

   d) When it has been no more than one year since the supplier completed supplying the delivery to the government institution that issued the tender,

10) For this purpose, the institution must notify in advance the government institution that previously executed the procurement and obtain verification that a similar request has not been submitted by another government institution and procurement executed;
11) Outside of authorized standard procurement methods, procurement shall be executed based on a single lump-sum unit price according to the construction works and other related works single lump-sum unit price regulation issued by the City Administration Design and Construction Works Bureau through periodic studies, or by another executive body authorized to establish it through periodic studies by the City Administration.

67. Regarding Negotiations to be Carried Out in Direct Procurement

1) In accordance with Article 28, sub-article 4 of the Proclamation, when government institutions execute procurement through the direct procurement method, they may reach an agreement by conducting negotiations on the following conditions, including price:

   a) The technical specifications (specifications) of the purchased goods, services, or construction works,

   b) Price and payment performance,

   c) Delivery schedules and timelines,

   d) Warranties and after-sales services, and

   e) Any other conditions that enable achieving the maximum value for money for government funds and protecting the public interest;

2) When government institutions conduct negotiations under the direct procurement method, they must fulfill the following prerequisites:

   a) That the procurement meets the selection criteria for direct procurement as specified under the Proclamation and this directive,

   b) The government institution must document in writing the necessity of the negotiation to ensure the best outcome of the procurement, and

   c) Prepare a detailed negotiation plan by defining the objective and scope of the negotiation and designating a negotiating team through the highest official of the government institution;

3) Negotiations implemented to execute direct procurement must be conducted before the procurement contract is signed;
4) The government institution shall establish a negotiating team consisting of at least three members who are relevant to the procurement and possess developed experience and knowledge in procurement and property;
5) The negotiating team must prepare a negotiation plan expressing the objectives of the procurement and negotiation, as well as acceptable terms and conditions, and notify the supplier in advance of the subject matters open for negotiation;
6) The government institution shall ensure that the negotiation is transparent, detailed, incorporates inputs from all parties, is fair, ensures the maximum value for money for government funds, establishes accountability, and maintains core procurement principles;

7) The outcome of the negotiation must be reviewed and approved by the highest official of the government institution before the procurement contract is signed;
8) The government institution must retain the full report of the negotiation process, showing the conducted negotiation proceedings and agreements reached, as part of the procurement file.

Section Five

Procurement Executed Under Special Conditions

68. Executing Procurement Under Special Conditions

1) In accordance with Article 23, sub-article (5) of the Proclamation, when a compelling reason is presented to execute a procurement, and a request is made to conduct a procurement or execute a contract using procurement methods, bidding documents, and forms not covered under the Procurement and Property Administration Proclamation and this Procurement Execution Directive, or outside the system established by the Proclamation or this directive, the head of the institution may grant authorization under special conditions;
2) In accordance with this article, for special condition procurement requests submitted by accountable institutions, the special condition authorization must be granted solely by the head of the institution to which those institutions report;
3) Notwithstanding the provisions under sub-articles (1) and (2) of this article, for government institutions accountable to the City Administration Council and the Mayor's Office, authorization for special condition procurement requests submitted in accordance with this section must be granted solely by the head of those respective institutions;
4) An organ authorized to review and decide upon a request for special condition authorization in accordance with this article shall not delegate its given authority to accountable institutions.

69. Principles to be Followed in the Submission and Response of Special Condition Authorization Requests

1) The special condition request regarding a government institution's procurement must be submitted by the procurement department of the institution, and for accountable institutions, the request for special condition authorization must be submitted to the head of the institution to which they report solely by the head of that reporting institution;
2) The request referenced under sub-article (1) of this article must provide a clear and compelling explanation detailing the mandatory reasons that make it impossible to follow standard procurement processes or standard procurement procedures, stating why it is necessary to execute the procurement under special conditions, and must be accompanied by sufficient supporting documents;

3) Verifying that it is impossible to execute the requested special condition authorization requests following the standard procurement system;
4) The requested special condition authorization requests and responses include providing timely responses in a manner that ensures achieving the value for money that funds can yield, and enables the procurement to be executed or a decision to be reached within the scheduled timeframe;
5) Evaluating the performance of procurements executed under special authorization requires ensuring that they are conducted in accordance with other standard procedures, with the exception of the responses given to the requested special authorization requests;
6) Ensuring that the responses given are balanced and data-driven, and requires stating the reasons for the responses given and decisions made to the extent possible;
7) Without prejudice to the responsibility of the procurement department or the head of the accountable institution to submit the initial special authorization requests after verifying their appropriateness, the officials and professionals participating at various levels in the decisions made in connection with the matter shall be held accountable regarding the decision made.

70. Submission of Special Authorization Requests

1) Special authorization requests must be verified and signed by the procurement department of the government institution or the head of the accountable institution, as appropriate, upon submission;
2) The submitted special authorization requests must attach explanations and supporting documents detailing the reasons why it was impossible to execute the procurement following the procurement law and the operational procedures;
3) The submitted special authorization requests must clearly verify the supply or service timeframe, the estimated value it may incur, the volume of supplementary construction works, the physical performance of the construction works, and other information;
4) They must verify the economic and social benefits derived from the perspective of quality, cost, and time if the procurement is executed through the proposed alternative to conduct the procurement under special conditions;
5) The responsibility to ensure the accuracy of the submitted explanations and attached evidence rests upon the procurement department of the institution or the head of the accountable institution who signs and submits the letter, as appropriate.

71. Decision-Making Procedures for Special Condition Authorization Requests

1) The accuracy of the explanations and attached evidence submitted by the procurement department of the institution or the head of the accountable institution must be verified, as appropriate;

2) The procurement authorization granted under special conditions must be utilized solely for the authorized timeframe and volume;
3) Without prejudice to the explanations and evidence submitted for approval under special conditions, additional explanations and documentary evidence may be requested;
4) The special authorization request shall be decided upon by examining the submitted evidence and explanations, taking into account the economic and social benefits derived from the perspective of time, quality, and price;
5) The response letter for approved special authorization requests must be made known to the institution or the internal audit department of the institution, and the overall performance must be separately submitted in a quarterly report to the Bureau;
6) The government institution must not cause the procurement to be executed under special conditions by terminating the procurement process after it has already commenced executing the procurement through the standard procurement process;
7) Potential risks that may arise in connection with executing the procurement under special conditions must be identified and evaluated;
8) The procurement decision and process executed under special conditions shall be audited by the Bureau and other regulatory institutions.

Chapter Five

Procurement Strategies

72. Types of Procurement Strategies

In accordance with Article 30, Sub-Article (1) of the Proclamation, government institutions may execute procurement based on the nature of the procurement using the strategies listed below:

1) Strategic procurement;
2) Framework procurement;
3) Joint procurement;
4) Lease agreement procurement;
5) Own-force works procurement;
6) Turnkey procurement;
7) Electronic reverse auction tender.

Section One

Strategic Procurement

73. Implementation of Strategic Procurement

1. When the top officials of the government believe that it helps the government fulfill its responsibilities or brings a special benefit to the city, strategic procurement may be executed centrally or through the Government Procurement and Property Disposal Service based on the order of the Mayor or the Bureau;

2. The institution mandated to execute procurements of special national or city-wide benefit must implement the procurement while maintaining the provisions of the Proclamation and this directive.

Section Two

Framework Procurement

74. General Provisions

1) The primary objective of framework procurement is for government institutions to execute effective procurement for their recurring needs or for similar goods and services required repeatedly by more than one government institution and capable of being procured in bulk, taking into account the economic advantage derived from price without compromising the advantage derived from quality;
2) Notwithstanding the provision of Sub-Article (1) of this Article, the implementation of framework procurement shall, as much as possible, be executed in a manner that encourages the participation of domestic bidders, takes capacity into account, and eliminates unfairness that may arise among suppliers;
3) In accordance with Article 54, Sub-Article (7) of the Proclamation, framework agreement procurement shall be executed through the open bidding procurement method; however, government institutions may use other relevant procurement methods to meet their recurring needs and execute framework agreement procurement;
4) When a government institution realizes that executing procurement by comparing bidders every time does not have economic benefits, and upon verifying that the goods are not included in the list of goods executed by the office established to execute central framework procurement, it may execute a framework agreement procurement lasting up to two years by following the relevant provisions of this part;
5) Notwithstanding the provision under Sub-Article (4) of this Article, government institutions may enter into a office rent service framework contract lasting up to five years, provided that its viability is confirmed by conducting a prior assessment study;

6) The implementation of framework procurement for goods and services must be executed based on the standard bidding document prepared for the procurement in accordance with the Proclamation and this directive, as well as the framework agreement.

75. Implementation of Framework Procurement

1) Government institutions or the public office established to execute central framework procurement shall engage in this procurement when the required procurement need recurs over a certain period of time, or when it is impossible to determine the exact quantity of the need, or when the government institution believes it will face an emergency procurement need arising over a certain period due to the specific nature of the procurement;
2) Government institutions must execute their framework procurement needs, other than the central framework procurement, through a competition conducted on the basis of a framework agreement;
3) The office that executes central framework procurement, taking into account the nature and complexity of the procurement, predictable emergency needs, the availability of supply in the market, and the electronic system required to execute the procurement, shall enter into a framework agreement...

76. Duties and Responsibilities of Entities Participating in Framework Procurement

1) Concerning framework procurement, the Bureau shall have the following responsibilities:

a) In accordance with Article 53, Sub-Article (3) of the Proclamation, determining, updating, and publicizing through the government electronic procurement system or website the list of goods and services commonly required by all city administration government institutions;

b) Building the capacity of, and providing professional advice and training to, the office established to execute central framework procurement to ensure effective implementation of framework procurement;

c) Making current market price data published by the Ethiopian Statistics Service accessible on the government electronic system;

d) Regularly monitoring, controlling, and providing support to the implementation of framework procurements executed centrally;

e) Following up to ensure that government institutions prepare details of their procurement needs for goods and services to be included in the list issued by the Bureau in accordance

with Article 53, Sub-Article (3) of the Proclamation and send it by June 30 to the office executing the framework agreement procurement;

f) Ensuring that the procurement of common-user items identified for central framework agreement procurement is not executed by other institutions without obtaining the appropriate permission from the Bureau;

g) Preparing standard bidding documents to be used for framework procurement.

2) The public office established to execute central framework procurement shall have the following responsibilities:
a) Preparing a framework procurement plan by aggregating the needs of all government institutions following the procedures specified below, notifying the Bureau and user government institutions within the time limit specified in this directive, and publicizing it through the government electronic procurement system or, as necessary, through other operating systems;

b) Sorting and organizing the detailed procurement needs submitted by government institutions by procurement type, quantity, and quality standard, and, as necessary, jointly preparing detailed technical specifications with the relevant bodies;

c) Determining the overall estimated monetary value of the procurement by collecting current market price information for the categorized goods and services;

d) Dividing the required goods and services into lots in a manner that broadens competition and takes into account the capacity of domestic suppliers at various levels as well as job creation enterprises; and allocating them once the bid results are known;

e) Identifying goods and services that should be procured through framework procurement based on requests and needs submitted by user government institutions, and notifying the Bureau for their inclusion in the list it issues;

f) Executing central framework procurement in accordance with the list of goods and services issued by the Bureau pursuant to Article 53 (3) of the Proclamation, while following the provisions of the Proclamation and this directive;

g) Preparing a bidding document based on the standard bidding document prepared for each procurement type, incorporating the type of procurement, estimated quantity, the list of government institutions for whom the procurement is executed, delivery conditions, the duration of the framework agreement, and other matters that may determine the bidding conditions, and floating the tender using the government electronic procurement system;

h) Evaluating the submitted bid documents in accordance with the relevant provisions of the Proclamation and this directive, identifying the winners, executing the framework contract, and carrying out the allocation of suppliers taking into account the volume of procurement needs of user government institutions;

i) Making efforts to resolve disputes through discussion when an issue arises between the framework agreement supplier and the government institution;

j) Verifying that the price of the winning bidder reflects market prices in accordance with the provisions of the Proclamation and this directive;

k) Reviewing the capacity and workload of the alternative framework suppliers selected during the competition, and changing the supplier in accordance with the ranking sequence established during the evaluation process, upon request by government institutions, if the supplier is unable to deliver due to force majeure or other reasons;

l) Signing the framework agreement in a timely manner; and granting permission to government institutions to execute procurements on their own using an appropriate procurement method so as not to disrupt their operations if it becomes impossible to sign the framework agreement on time due to force majeure;

m) Allocating suppliers to user government institutions using the electronic procurement system or, as necessary, other government procurement operating systems;

n) Publicizing information showing the list of suppliers that have entered into a framework agreement in accordance with serial letter (f) of this sub-article along with the allocations made to user government institutions, and making it accessible on its own website as necessary;

o) Monitoring and evaluating the contract performance of the supplier, and submitting a default report to the Bureau for action to be taken either on its own initiative or based on information submitted by user government institutions regarding defaults committed;

p) Providing support to government institutions during contract execution, keeping records of supplier performance evaluations, and using them as input for future procurement decisions;

q) Conducting a contract performance evaluation upon the completion of the framework agreement and ensuring the release of the performance security.

3) User government institutions which benefit from the procurement shall have the following responsibilities:

a) Preparing a detailed list of procurement needs for goods and services to be included in the list issued by the Bureau in accordance with Article 53, Sub-Article (3) of the Proclamation, along with specifications of needs as appropriate, and submitting it annually by June 30 to the office responsible for executing the framework agreement procurement;

b) Government institutions that fail to submit their procurement needs within the prescribed time limit to the institution executing the central procurement in accordance with Sub-Article 3 (a) of this section shall not benefit from the framework procurement;

c) Entering into individual contracts and managing such contracts with the allocated supplier in accordance with the framework agreement sent by the office executing the central framework procurement;

d) Issuing purchase orders and monitoring execution under the framework contract strictly for supplies that are included in the detailed list of needs previously communicated to the office executing the central framework procurement;

e) Taking delivery of supplied goods and services after verifying that they meet the quality standards specified in the contract, and making timely payments in accordance with the framework contract;

f) Monitoring and evaluating the contract performance of the supplier, and reporting to the Bureau for administrative measures to be taken, without prejudice to actions the government institution may take in accordance with the contract and other laws if the supplier fails to perform as agreed;

g) Only government institutions that have communicated their procurement plans in advance to the office executing the central framework procurement may enter into contracts and execute procurements under a framework agreement in accordance with serial letter (a) of this sub-article;

h) Where user government institutions wish to purchase a different model of a good included in the framework agreement rather than the model allocated to them under the agreement, such procurement may be executed accordingly provided that the entity executing the central procurement verifies that the price aligns with the framework agreement rate, that it provides a better advantage to the government institution, and that it would be impossible to execute the procurement without making the model change.

4) In addition to the obligations set out in the Proclamation, this directive, the framework agreement, and the contract, the supplier shall have the following obligations:
a) Supplying all goods and related services included in the scope of supply in accordance with the contract;

b) Providing insurance coverage against risks for goods supplied under the contract, unless specified otherwise in the contract;

c) Replacing goods that fail to meet the specifications stated in the contract, or those that are damaged or have quality defects;

d) Rectifying or repairing defects if there is a post-delivery warranty stipulated in the contract;

e) Delivering the goods at the place specified in the contract terms, the purchase order, or as agreed upon with the procuring entity.

77. <u>Framework Procurement Bidding Procedures</u>

1) Framework procurement shall be implemented in accordance with the provisions of this Article, while the bidding procedures specified in this directive shall be carried out on the basis of a standard bidding document.
2) For the effectiveness of the framework agreement, the government institution or the office established to purchase central framework procurement should, as appropriate, conduct a pre-bid conference using the electronic government procurement system in accordance with the following:

   a) The invitation to bid must notify that a pre-bid conference will be held, and the specific date, time, and address of the conference must be stated in the bidding document;

   b) Bidders must be hosted properly during the pre-bid conference, and all bidders must be given an equal opportunity to participate in the meeting; furthermore, the meeting must focus on potential challenges that may arise during contract administration and precautionary matters;

   c) Following the pre-bid conference, it shall invite bidders to submit their questions and clarifications based on the address, date, and time specified in the bid data sheet;

   d) Minutes shall be taken for the pre-bid discussion. To enable bidders to incorporate clarifications raised during the discussion into their bid submissions, a copy of the minutes must be uploaded to the government electronic procurement system where the bidding document was issued and onto the office's website.

3) The bid evaluation for framework agreement procurement must take the following points into account:

a) It shall separate qualified and unqualified bidders against the criteria set out in the bidding document by examining the completeness and acceptability of the legal, professional, technical, financial, and other necessary documents submitted by the competing bidders;

b) It shall conduct a price evaluation based on the prices submitted by bidders who qualify in the technical evaluation, taking into account life-cycle cost analysis based on the list of goods or services identified by the Bureau; the price competition must be conducted for each specific item type;

c) In addition to the bid price, the procuring entity may consider other factors for the bid price evaluation. These factors may relate to the nature of the service, performance, terms, and conditions; the factors used for evaluation and the methods of application shall be specified in the bidding document.

4) Using the evaluation and comparison criteria stated in the bidding document, the bidder that has submitted the lowest price among those who met the fundamental or minimum evaluation criteria must be selected as the winner.
5) Prior to disclosing the winners of the bid, the office executing the central framework procurement may verify through a post-qualification evaluation the capacity of the bidders to enter into a contract in accordance with the provisions of this directive.
6) Without prejudice to the provisions of Sub-Articles 1 through 5 of this Article, the office may select more than one winner and enter into a framework agreement in accordance with the detailed procedures specified in advance in the bidding document; however, the selection of the bid winner must be based on the price competition conducted for each specific item type.
7) During the technical evaluation stage, the office established to execute framework procurement shall, as necessary, have the submitted samples tested by an authorized government organ and obtain confirmation that they are acceptable.

78. <u>Signing a Framework Agreement</u>

1) The office established to execute framework procurement shall sign a general agreement on behalf of government institutions, and the selection of the bid winner shall be based on the price competition conducted for each specific item type, taking the following into account:

a) A list of government institutions utilizing the framework agreement during contract administration, the entity signing and administering the framework agreement, as well as the responsibilities and obligations of the framework agreement suppliers;

b) The system through which purchase orders are transmitted, deliveries are made, and payments, monitoring, and evaluations are conducted under the framework agreement;

c) The system through which disputes shall be resolved when they arise.

2) The entity established to execute central framework agreement procurement may enter into a contract for up to three (3) years with suppliers who win the tender issued for the framework agreement.
3) While a contract lasting up to three (3) years is signed with suppliers who win the tender issued for the framework agreement, the entity established to execute framework procurement may, by considering the following and other conditions based on the nature of the procurement and as necessary, sign a similar framework agreement with more than one willing competitor according to their ranking sequence:

a) When the required procurement volume and the capacity of the selected supplier do not match the required supply; or

b) When there is a large number of similar suppliers in the market and it is necessary to provide the procurement opportunity to multiple suppliers; or

c) When it is necessary to conclude the procurement quickly at the offered price due to the market price being highly volatile.

4) Depending on the nature of the procurement, a similar framework agreement may be entered into with more than one competitor when the office established to execute framework procurement invites other bidders, according to their ranking sequence, to supply at the winning price; the office shall determine the number of suppliers to be invited and the quantity/share they will supply by looking into the nature of the procurement.
5) A contract executed in accordance with Sub-Article (3) of this Article shall adhere to the following:

a) It shall sign a framework agreement with suppliers who are willing to supply at the winning price;

b) For the implementation of this Sub-Article (a), the winning price means the lowest price among the bidders submitted for competition before any special preference is applied;

c) The winning company shall be granted selection priority on matters concerning contract agreements and choices;

d) Provided that the number of bidders is sufficient and there are bidders who agree to supply at the price of the main winning bidder, the framework agreement must include at least five suppliers, and the share allocated to the main winner of the bid shall not be less

than 50% (fifty percent) of the total contract volume. The remaining 50% (fifty percent) shall be distributed among the suppliers who agreed to supply at the winning bidder's price and were selected according to their ranking, provided that the lowest share is not less than 5% (five percent) of the total contract volume;

e) If the number of bidders who agreed to supply at the winning bidder's price is less than five, the share allocated to the primary winner shall be at least 60% (sixty percent) of the total contract volume, while the remaining share shall be distributed among the rest of the suppliers according to their ranking; however, the lowest share shall not be less than 5% (five percent) of the total contract volume;

f) Notwithstanding the provision of serial letter (e) of this Sub-Article, if bidders who agree to supply at the winning bidder's price are not available, the winning bidder may supply the entirety of the total procurement need, subject to the conditions of the winning bidder's agreement;

g) If the competitor who won the bid in accordance with this Article refuses to sign the contract, the second-placed bidder must be made to supply at the price won by the primary winner.

6) The contract of the suppliers executing the framework agreement may last up to three years, and the contract performance security that the suppliers deposit with the entity signing the framework agreement shall be exactly a 3% (three percent) share of the total contract delivery price.
7) Without prejudice to the provision of Sub-Article (5) of this Article, the suppliers must provide a 10% (ten percent) contract performance security proportional to the contract entered into, in accordance with the individual contracts they sign with the government institutions for whom the framework procurement is executed.
8) The contract performance security deposited by suppliers when entering into a central framework agreement in accordance with Sub-Article (5) of this Article shall be released upon the expiry of the contract term, only after evaluating the contract performance of the supplier during the framework agreement period and verifying that it has been executed according to the agreement.
9) The contract performance security deposited by suppliers under the individual contracts they enter into with government institutions in accordance with Sub-Article (6) of this Article shall be released only when they completely deliver in accordance with the contract entered into with the user government institutions.
10) Notwithstanding the provisions of Sub-Articles (7) and (8) of this Article, if the Procurement and Property Disposal Approval Committee is convinced that the contractual obligation unfulfilled by the supplier does not cause any damage or additional expense to

the office and that it was not committed due to the supplier's negligence, the contract performance security may be returned to the supplier.

11) The office executing the framework agreement procurement may terminate the framework agreement due to one of the following reasons:

a) When it is known that the framework agreement supplier has failed to fulfill its obligations under the contract;

b) When the procurement needs of the government institutions change for a clear and known reason;

c) When it is verified upon reviewing the framework agreement price, other conditions, as well as the prevailing market situation, that there is a wide variation that could harm government institutions.

12) When it is decided to terminate a framework agreement in accordance with serial letters (b) and (c) of Sub-Article 11, the framework agreement supplier must be notified of the reason for termination and given a one-month prior warning notice before it becomes effective.

13) Government institutions specified in the contract cannot execute their procurement from another supplier until the prior warning notice period given in accordance with Sub-Article 11 expires.

79. Signing a Framework Contract

1) In accordance with Article 54, Sub-Article (5) of the Proclamation, government institutions, in consultation with the entity established to execute framework agreement procurement, shall sign and manage individual contracts with the supplier lasting up to one year;

2) Government institutions, utilizing the copy of the framework agreement forwarded to them by the entity established to execute framework agreement procurement, shall sign individual contracts enabling them to purchase the supplies specified in the agreement and transmit purchase orders to the framework agreement supplier;

3) The purchase order or the individual contracts entered into between the government institutions and suppliers shall not alter the essential unit prices and other contract conditions incorporated within the general agreement; however, the government institution may enter into an individual contract with the framework agreement supplier on the following and other similar matters:

a) The timeframe within which the goods are to be supplied and payments are to be effected;

b) The quantity of goods to be supplied under a single purchase order;

c) The place where the goods are to be delivered and, as necessary, other related matters;

4) The government institution must provide a copy of the individual contract it has executed as described under Sub-Article (2) above to the institution established to administer the execution of framework procurement;

5) During the implementation of a framework agreement, government institutions must exercise the following precautions:
   a) Ensuring that purchase orders are issued based on the needs communicated to the institution that executed the framework procurement, and strictly for the goods procured under the framework agreement;
   b) Ensuring that the obligations to be performed by government institutions specified in the framework agreement are executed in accordance with the agreement;
   c) Making efforts to resolve disputable matters arising under the contract jointly with the entity administering the framework agreement;
   d) Promptly notifying the entity established to administer the framework agreement regarding defaults committed by the framework agreement supplier on major contract matters, namely, compromising product quality and quantity, failing to observe delivery times, packaging issues, and the like;
   e) Determining the timing for issuing purchase orders and the volume of supplies they require to be delivered for their needs included in the framework agreement, and consulting the procuring entity regarding the detailed implementation;
6) Amendments made during framework procurement shall be implemented in accordance with the provisions of the Proclamation and this directive; however, provided that it meets the essential and minimum quality criteria and does not entail an associated price increase, changes in products occurring due to technological advancement may be accepted and accommodated as the case may be;
7) Government institutions, upon evaluating the contract performance of the supplier, must notify the institution executing the central procurement before signing the subsequent framework contract;
8) In accordance with what is specified under Sub-Article (7) of this Article, the government institution must adhere to the following conditions for its recurring similar needs:
   a) The tender it conducts must follow the procedures set out in this directive;
   b) The contract it signs shall not have a duration exceeding two years; however, where a prior feasibility assessment study confirms that it provides a better advantage to the government institution from a perspective of time and administrative matters, framework procurement contracts for office and warehouse rental services may last up to five years;
   c) It may allow price adjustments that follow the price adjustment provisions set out in this directive and execute them in accordance with the approved implementation system.

Section Three

Joint Procurement

80. Prerequisites for Joint Procurement

1) The entities wishing to execute the procurement jointly must be two or more government institutions;
2) In accordance with Sub-Article (1) of this Article, the procurement to be executed must not consist of goods whose list is determined by the Bureau to be procured centrally;
3) The procurement must be executed to meet the common needs of public institutions;
4) The government institutions wishing to execute the procurement jointly must first select a government institution capable of executing the procurement on behalf of all parties, and prepare and sign a joint agreement document;
5) The joint agreement document must incorporate the reason and objective for which the joint procurement is required, the list of government institutions participating in the joint procurement, the type of the intended procurement by name, quantity, who should prepare the bidding document, the bidding process, and contract execution;
6) Each government institution must be capable of executing an individual contract with the winning bidder of the joint procurement;
7) They must verify in advance the economic advantage derived from the joint procurement, the reasonable price, the reduction it yields on procurement administration costs that would have been incurred had the bid been conducted individually, the opportunity to execute the procurement with better human resources and experts, and the benefits it can yield in terms of price relative to executing the procurement jointly;
8) The intended procurement must be included in the annual procurement plan of each government institution;
9) The division of work of each government institution in the bidding process and whether its role in the coalition constitutes full or partial participation shall be determined;
10) The joint agreement shall serve for a single-use procurement only;
11) Conditions enabling the joint execution of goods and other non-consultancy services through joint procurement must be present.

81. Implementation of Joint Procurement

1) The government institution selected to lead the joint procurement must collect the procurement needs of the participating government institutions within a few days;
2) The work of preparing the bidding document shall be carried out individually or jointly; the lead government institution among the procuring government institutions shall prepare a draft bidding document, cause them to give feedback on it, and prepare the final bidding document; it shall have the jointly agreed bidding document approved by the coalition government institutions;
3) The invitation to bid and the bid evaluation may be carried out by the lead government institution or by experts drawn from the member government institutions executing the procurement;
4) The bidding process shall follow the legal procedures authorized for the national open bidding procurement method;
5) The winning company shall sign individual contracts with the government institutions;
6) The performance security and matters related to the contract shall be managed in the manner previously agreed upon by the coalition government institutions in the joint agreement;
7) A check must be conducted to verify that the price of the winning bidder reflects market prices, and a report evaluated in terms of the economic advantage of the procurement must be submitted to the Bureau;
8) Additional procurement may be executed only when it fulfills the prerequisites and limits set out for additional procurement in this directive;
9) This procurement strategy must be executed following the government electronic procurement system or, as necessary, other operating systems.

Section Four
Procurement through Lease Agreements

82. Procurement through Lease Agreements

1) Government institutions shall ensure that lease agreements they enter into are cost-effective, offer flexibility, and provide access to the benefits of the latest technologies;
2) Government institutions shall clearly demonstrate that procurement through lease agreements offers advantages over purchasing the property or asset, in terms of cost-effectiveness, operational requirements, and technological advancements;
3) The evaluation of bids under a lease procurement process shall be conducted fairly by establishing a competent technical committee to assess bidders' qualifications, experience, market prices, and bids;
4) The lease agreement shall specify the lease term, lease payments, the party responsible for carrying out maintenance work, maintenance responsibilities, insurance coverage, dispute

resolution mechanisms, and the general conditions under which the agreement may be terminated;

5) Procurement through lease agreements shall comply with the bidding procedures set out in Chapter Seven of this Directive and the financial thresholds prescribed for each procurement method.

Section Five
Own-Force Works

83. Implementation of Own-Force Works Procurement

1) This is a procurement strategy whereby a government institution executes construction works or non-consultancy services on its own using its own human resources and equipment without a bidding process; procurement may be executed through this strategy only when one of the following conditions is met:

   a) When the construction works or non-consultancy services intended to be carried out are small and scattered, or are complex and other parties do not wish to participate for various reasons, or when tenders have been repeatedly floated and no competitor is found, or because they are located in remote areas, it is assumed that qualified and experienced companies capable of executing the works at a reasonable price cannot participate in the bid;

   b) The equipment required for the construction work may be owned by the government institution or obtained through rent;

   c) The scope of the work is limited only to maintenance and other small tasks;

   d) When it is verified by the government institution that the interruption of the contract is irreversible and it is proven through scientific or technical procedures that the risk associated with the interruption of the work or service falls under the responsibility of the government institution rather than the supplier; or

   e) When emergencies requiring urgent construction works occur.

2) Government institutions may use the own-force procurement method only for small, urgent, or technically unique works, or under circumstances where involving contractors is impractical or uneconomical;

3) Own-force procurement may be executed when it is verified that the remaining construction works do not require unique experience and capacity, and that quality problems will not be encountered in the construction work;

4) Government institutions may use the own-force method only if the cost incurred is lower than the price of purchasing from contractors, and if the knowledge or equipment required

for the nature of the work is available within the government institution; however, the own-force procurement strategy cannot be applied to large works or projects where executing the procurement through competition is necessary to ensure the best value for money;

5) Before commencing an own-force work, government institutions must prepare a detailed work plan describing the scope of work, time limit, and method of operation; estimate the total cost, including human resources, materials, and equipment utilization; and specify the personnel, equipment, and other utilities required for implementation;
6) All resources, personnel, equipment, and other materials necessary to execute the work must be allocated in accordance with the work plan;
7) The government institution shall appoint a project manager to supervise the work performed by own-force;
8) In accordance with this Article, payments made under an own-force procurement must be carried out by signing a professional service agreement, following the government institution's operating procedures, and in a manner that does not exceed market prices;
9) Without prejudice to the regular inspection of the progress of the own-force work, reports showing detailed implementation must be submitted to the head of the government institution or to an authorized representative;
10) The government institution shall maintain detailed records of costs, resource utilization, and work progress for works executed under this Article; it must also ensure transparency and accountability by making them available for examination by the relevant oversight bodies;
11) A government institution may execute procurement in accordance with this Article only by submitting a request to the head of the government institution justifying the reason for choosing to use this strategy and obtaining approval;
12) The government institution must submit a report on the performance of the own-force procurement to the Bureau.

Section Six

Turnkey Procurement

84. Implementation of Turnkey Procurement

1) When government institutions believe that there is an advantage in executing through a single tender an integrated procurement of items that form part of a single project but could otherwise be issued as separate, independent tenders, they may execute the procurement as a turnkey procurement by linking the various procurements together;
2) Turnkey procurement may be executed by integrating one or more types of procurements as necessary;

3) When procurements related to construction works are executed on a turnkey basis, the construction supervision work shall be carried out by a consultant hired by the government institution and must not be an integrated part of the work;
4) When government institutions execute procurement using the turnkey procurement strategy, they may use the relevant procurement methods authorized under the Proclamation and this directive;
5) Government institutions may use turnkey procurement only under the following conditions:
   a) When the works are complex, can be completed within their set timeframe, and can be executed through the two-stage bidding procurement method;
   b) If the construction work or the good does not accommodate variation orders and consists of works or goods for which price adjustments are not requested; and
   c) When it is verified that the procurement can be executed using the standard bidding document prepared by the Bureau for turnkey procurement.

Section Seven

Electronic Reverse Auction Tender

85. Implementation of Electronic Reverse Auction Tender

1) An electronic reverse auction is a procurement method whereby government institutions use electronic means to enable qualified candidates, who meet the minimum requirements requested by the government institution, to compete within a specified limited time through a repetitive process by continuously submitting new or revised prices, and by using the electronic system to meet the required quality of the good or service, the bidder that has submitted the final lowest price is selected as the winner of the tender;
2) Government institutions, when using the electronic reverse auction procurement method to execute the procurement of goods and services, must verify that it satisfies the provision set out in Article 30, Sub-Article (8) of the Proclamation;
3) Government institutions may use this procurement strategy when the head of the government institution verifies that they have the capacity to execute procurement using the electronic system under this strategy;
4) The monetary threshold of procurements executed under this procurement strategy shall not exceed the limit set out for each procurement method in this directive.

86. Electronic Reverse Auction Tender Procedures

1) Electronic reverse auction tender procedures shall follow the relevant provisions specified in this directive for this procurement strategy, and particularly the procedures specified under this Article;
2) In addition to what is specified under the regular bidding procedures, the invitation to bid must incorporate the following information:
   a) The timeframe within which bidders interested in participating in the tender can register on the electronic reverse auction registration list;
   b) A clear and unambiguous description showing the detailed requirements of the intended procurement and, as the case may be, contract terms and conditions;
   c) The tender evaluation criteria and a description of the evaluation process;
   d) A statement that bidders can only decrease, and not increase, their bidding price submissions;
   e) A requirement that a bid securing declaration form must be submitted in accordance with what is specified under the regular bidding procedures of this directive; and
   f) Other required conditions that bidders must fulfill as specified in the electronic reverse auction implementation directive.

87. Registration of Electronic Reverse Auction Suppliers

1) Bidders participating in an electronic reverse auction must strictly be those who have registered in advance for this purpose;
2) Government institutions must immediately notify the candidate bidders registered for the electronic reverse auction of the confirmation of their registration for this purpose;
3) Where the government institution finds that the number of registered bidders is insufficient to ensure adequate competition, or where it finds that a disruption occurring in the electronic communication system makes it impossible to run the competition, it may extend, suspend, or cancel the tender as necessary;
4) When the government institution believes that the registration of a massive number of bidders could disrupt the electronic communication system, it may limit the number of registered bidders allowed to participate in the competition; however, the minimum number of registered bidders participating in the competition shall not be less than five, and the selection must be carried out fairly in accordance with their chronological order of registration.

88. Electronic Reverse Auction Evaluation Process

1) Without prejudice to the fundamental bidding procedures specified in this directive, the electronic reverse auction evaluation must adhere to the following procedures:
2) The government institution must grant equal opportunity to the competing bidders to participate and submit their prices;
3) The tender evaluation shall be carried out based on pre-established criteria through the electronic system prepared for this purpose, in a manner accessible to the bidders participating in the tender;

4) Bidders selected for the price competition must strictly be those who have been identified and registered during the preliminary evaluation as having the required quality standard and capability in the requested good or service sector;
5) Each bidder must receive information through the electronic system in a fast and uninterrupted manner during the bidding process, enabling them to see their own relative ranking against other bidders in order to revise their price;
6) Except for what is specified under Sub-Article (3) of this Article, there shall be no communication between the government institution and any bidder, as well as among the bidders themselves;
7) To maintain the confidentiality of the competition, the government institution shall not disclose the identity of any bidder to other bidders participating in the tender;
8) The bidder that has submitted the lowest price within the timeframe set for the tender shall be selected as the winner of the bid;
9) Prior to notifying the final results, the office shall notify the bidders of the tender outcome of the bidder that submitted the lowest price, in accordance with the bidding procedures and relevant systems set out in this directive.

Chapter Six

Execution of Construction Works Procurement

Section One

Qualification Criteria for Construction Works Procurement

89. Qualification Criteria for Construction Works Procurement

In addition to the detailed criteria set out in this directive, bidders in a tender issued for the procurement of construction works are expected to fulfill the criteria indicated under this Chapter Six to verify that they possess the capacity to execute the construction work.

90. Performance Assessment

1.) The procuring government institution must require contractors to submit information regarding their performance on works they have previously held or handed over;
2.) Where this information is available from a third party, the government institution must perform further verification and confirm during bid evaluation by reviewing contract documents, other documents, or by physically appearing to check the bidder's past works.

91. General Experience

1) Except for domestic contractors ranked from Grade 6 to 10 according to the grading provided by the Ethiopian Construction Works Authority, other domestic contractors must have five years of experience for Grade 1 and 2, three years of experience for Grade 3, and two years of experience for Grade 4 and 5 in their respective sectors as a contractor, joint venture partner, or subcontractor;
2) Foreign contractors must have at least 8 years of experience in the sector as a contractor, joint venture partner, or subcontractor.

92. Relevant Work Experience

1) Domestic contractors must have executed at least one construction work similar to the intended construction work within the past ten years as a contractor, joint venture member, or subcontractor, and must have completed at least 70% (seventy percent) of the work in a reliable and satisfactory manner;
2) When the estimated value of the construction work is less than Birr three billion, and contractors cannot fulfill the required relevant work experience value specified under Sub-Article 1 through a single project experience alone, the sum total value of three projects that have been completed satisfactorily and reliably and are related to the intended work may be considered for their experience; however, the individual value of the three projects must not be less than one-third (1/3) of the work experience value they are required to fulfill;
3) When the estimated value of the construction work is more than Birr three billion, and contractors cannot fulfill the required relevant work experience value specified under Sub-Article 1 through a single project experience alone, the sum total value of four projects completed satisfactorily and reliably may be considered for their experience; however, the individual value of the four projects must not be less than one-quarter (1/4) of the work experience value they are required to fulfill;
4) Foreign contractors must have executed at least two construction works similar to the construction work intended to be carried out under the tender within the past ten years as a contractor, joint venture member, or subcontractor, and must have completed at least 80% (eighty percent) of the work in a reliable and satisfactory manner;
5) Where the work experience submitted by the contractor was obtained as a subcontractor or joint venture member, only the specific volume executed as a subcontractor or only the experience proportional to its share in the joint venture shall be considered as work experience;
6) The relevant work experience criteria stipulated under this Article shall not apply to contractors ranked from Grade 6 to 10;

7) For bid evaluation purposes, adjustments to the construction value submitted by the contractor as work experience shall be calculated by dividing the exchange rate existing 28 days prior to the bid submission deadline by the exchange rate existing at the time the contract was signed, and then multiplying by the resulting output; the adjustment shall be calculated based on the foreign currency selling price data provided by the National Bank of Ethiopia;

8) For the implementation of this Article:
   a) "Satisfactorily completed" means a construction work project that has been completed to the extent of 70% (seventy percent) or 80% (eighty percent) and above, respectively, in accordance with Sub-Articles 1 and 4 of this Article;
   b) "Reliably completed" means a construction work project for which a confirmation certificate or work experience evidence has been submitted by the employer government institution verifying that the 70% (seventy percent) and above work executed by the contractor was performed within its schedule and extensions, as well as with verified payment documents at the required quality standard.

93. Financial Position

1) Contractors must submit a financial report certified by an authorized auditor showing their financial position for the past five years;
2) Notwithstanding the provision of Sub-Article (1) of this Article, if a domestic contractor has been established for less than five years, the financial report it submits shall be acceptable provided that it corresponds with its trade registration certificate or business license;
3) The financial report submitted by the contractors must be cross-checked and verified for accuracy against records available at the relevant tax authority or the Accounting and Auditing Board.

94. Annual Turnover

1) Concerning domestic contractors, the annual turnover taken for bid evaluation purposes shall be selected by choosing the best annual construction turnover registered by the contractor within the past five years from among collected payments for ongoing and completed construction works; the turnover volume that contractors are required to fulfill is calculated by dividing the estimated value of the intended construction work by the monthly timeframe estimated for completion—rounding up days to the next full month—and multiplying the result by 0.6;

2) For foreign contractors and contractors competing in an alliance at a joint venture level where they consist of domestic and foreign contractors, the multiplier numbers shall be 2 and 1.2, respectively;
3) For the implementation of Sub-Articles (1) and (2) of this Article:
   a) Required annual turnover for a domestic contractor = Estimated value of the intended construction work / Estimated completion months * 12 * 0.6;
   b) Required annual turnover for a foreign contractor = Estimated value of the intended construction work / Estimated completion months * 12 * 2;
   c) Required annual turnover for contractors competing in an alliance at a joint venture level consisting of domestic and foreign contractors = Estimated value of the intended construction work / Estimated completion months * 12 * 1.2;

4) For the purpose of adjustments made during bid evaluation, the annual construction turnover volume submitted by the contractor shall be calculated by dividing the exchange rate existing 28 days prior to the bid submission deadline by the exchange rate on the final day of each fiscal year; the adjustment shall be calculated based on the foreign currency selling price data provided by the National Bank of Ethiopia;
5) If the contractors have formed an alliance at a joint venture level, the turnover volume that each joint venture partner company must fulfill shall not be less than 25 percent of the requested amount, and for the lead contractor, it shall not be less than 40 percent;
6) Any entity responsible for determining the engineering cost estimate and the duration required for the construction work must provide confirmation that it did not prepare the engineering value or work duration by inflating or deflating it, and the estimate must be evaluated by the Procurement and Property Disposal Approval Committee and accepted by the head of the procuring government institution;
7) When the consultant prepares the design and engineering cost estimate of the construction work, if it is verified that the design, work volume, and bill of quantities it prepares are more than 15 percent above or below the actual quantities encountered during construction, or if it includes construction works that are not executed, it shall bear full responsibility for the damage caused to the government.

95. <u>Educational Preparation and Qualification of Professionals Deployed on Construction Work</u>

1) Contractors must show, as specified in the bidding document, that they will deploy qualified professionals required for the work in the necessary quantity and composition based strictly on the nature of the construction work, and they must submit reliable evidence indicating that the professionals can be present at their assigned location whenever they are required for the work;

2) The professionals described under Sub-Article (1) of this Article may be permanent or temporary employees of the construction contractor;
3) Government institutions must verify during construction that the evidence submitted to them by contractors regarding the educational preparation and qualification of professionals deployed on the construction work is in accordance with what is specified under Sub-Article (1) of this Article.

96. Fulfilling Construction Equipment

1) Contractors must submit confirmation showing, as specified in the bidding document, that they can provide the type and volume of equipment required for the work whenever needed, based strictly on the nature of the construction work;
2) The equipment provided may be owned by the contractors or obtained through rent.

97. Handling Experience in Procurements Involving More Than One Sub-Construction Work (Lot)

1) When the number of sub-construction works (lots) issued under a single invitation to bid is more than one, any bidder must cumulatively fulfill the annual turnover, financial capacity, and relevant work experience criteria for the sub-construction works it wishes to participate in;
2) Where a bidder fulfills the criteria requested for each individual sub-construction work but fails to cumulatively meet the criteria requested for the sub-construction works it participated in, it can enter into a contract only to the extent that it is capable of fulfilling the criteria, even if it submitted a better price for the sub-construction works when viewed individually;
3) In accordance with Sub-Article (2) of this Article, the government institution shall have the authority to determine the sub-construction work or works for which the contractor will enter into a contract based on its offered price, from the perspective of yielding the best advantage to the government institution.

Section Two
Minimum Requirements Requested for Various Types of Construction Works

98. Minimum Requirements Requested for Building Construction Works

1) For the implementation of this Article, building grades shall comprise the following:
   a) Grade "A" Small Building means a building with less than five stories above ground that has no elevator or any equipment replacing an elevator to transport passengers or goods between floors;
   b) Grade "B" Medium Building means a building with at least five stories and not more than fifteen stories above ground;
   c) Grade "C" High-Rise Building means a building with at least fifteen stories and not more than forty-five stories above ground;
   d) Grade "D" Very High-Rise Building means a building with at least forty-five stories or more above ground.
2) Where the bidder competing for building construction works is a domestic contractor, the minimum requested requirement must be the minimum requirement requested for Grade (A) small buildings and above;
3) For the implementation of Sub-Article (2) of this Article, a domestic contractor having work experience one grade lower than the intended building work shall be accepted; accordingly, a domestic contractor with work experience in Grade "A" works shall be acceptable for Grade "B" medium building construction works; a domestic contractor with work experience in Grade "B" shall be acceptable for Grade "C" construction works; and a domestic contractor with work experience in Grade "C" shall be acceptable for Grade "D" construction works;
4) Where the bidder competing for building construction works is a foreign contractor, it must possess building work experience equal to or greater than the intended building grade; for example, the experience possessed by a foreign contractor competing to perform Grade "D" construction must under no circumstances be less than building a building with forty-five (45) stories above ground.

99. Minimum Requirements Requested for Bridge Construction Works

1) Where the bidder competing for bridge construction works is a domestic contractor, the minimum requested requirement must be one grade lower than the intended bridge work; where the bidder competing for bridge construction works is a domestic contractor:
   a) A domestic contractor with work experience in building projects shall be accepted to compete in short-span bridge construction works provided it is verified that it possesses a professional with reliable work experience in bridge works and has underground work experience;
   b) A domestic contractor with work experience in short-span bridge construction works shall be accepted to compete in medium-span bridge construction works;

c) A domestic contractor with work experience in medium-span bridge construction works shall be accepted to compete in long-span bridge construction works.

2) Where the bidder competing for bridge construction works is a foreign contractor, the bridge construction work experience requested from the foreign contractor must not be less than the intended bridge work;
3) In addition to the minimum requirement requested for a foreign contractor, the procuring government institution may request bridge construction work experience in a specific bridge type;
4) For the implementation of this Article:

a) "Short" span bridge means a bridge serving vehicles or other modes of transportation whose length is less than 25 (twenty-five) meters;

b) "Medium" span bridge means a bridge serving vehicles or other modes of transportation whose length is not less than 25 (twenty-five) meters and does not exceed 50 (fifty) meters;

c) "Long-span bridge" means a bridge serving vehicles or other modes of transportation whose length is at least 50 (fifty) meters or more.

100. Classification of Road Projects by Pavement Type

When executing the procurement of road projects, it must be based on the following classification:

1) Asphalt concrete;
2) Double and triple asphalt surface dressing; or rigid/concrete pavement;
3) Gravel road;
4) Heavy maintenance and road rehabilitation; and
5) Routine and periodic maintenance.

101. Minimum Requirements Requested for Road Project Construction Works

1) Where the bidder competing for road project construction works is a domestic contractor, experience that is one grade lower than the intended road work shall be acceptable; therefore:

a) Road construction work experience obtained from new gravel road construction work, road rehabilitation, or heavy asphalt road maintenance shall be acceptable to compete for asphalt works;

b) Experience obtained from any asphalt work or other similar road construction works such as runways, or road grade upgrading projects shall be acceptable for asphalt projects;

c) Road construction work experience obtained from routine and periodic maintenance shall be acceptable to compete for gravel road and heavy road maintenance construction;

d) The procuring institution may take other small constructions as a criterion to compete in routine and periodic maintenance construction.

2) Where the bidder competing for road project construction works is a foreign contractor, the foreign contractor must possess road construction experience similar to or greater than

the intended road project; furthermore, the requested monetary volume shall under no circumstances be less than the monetary volume estimated for the intended road work.

102. Minimum Requirements Requested for Dam Construction Works and Irrigation Construction Works

1) Where the bidder competing for dam construction works is a domestic contractor, experience that is one grade lower than the intended dam work shall be acceptable as the minimum requested requirement; accordingly, a domestic contractor with experience in small dam works shall be acceptable for medium dam construction works;
2) Where the bidder competing for irrigation construction works is a domestic contractor, experience that is one grade lower than the intended irrigation work shall be acceptable as the minimum requested requirement; accordingly, a domestic contractor with work experience in small irrigation methods shall be acceptable for medium irrigation methods works; For the implementation of this Article:

a) "Large dam" means dams having a reservoir area of 10 hectares and above;

b) "Medium dam" means dams having a reservoir area from 3 to 10 hectares;

c) "Small dam" means dams having a reservoir area of less than 3 hectares;

d) "Small irrigation" means irrigation works having permanent or upgradeable water control and distribution infrastructure networks of less than 200 hectares;

e) "Medium irrigation" means irrigation works having permanent or upgradeable water control and distribution infrastructure networks from 200 to 3,000 hectares;

f) "Large irrigation" means irrigation works having permanent or upgradeable water control and distribution infrastructure networks of more than 3,000 hectares.

Chapter Seven

Bidding Procedures

103. Invitation to Bid Notice

1) To ensure a sufficient number of competitors participate in the tender, the invitation to bid must be published at least once using the government electronic procurement

system and, as necessary, in a newspaper of wide circulation or through other communication media;

2) The invitation to bid notice must incorporate at least the following elements:

a) The name and full address of the government institution issuing the tender notice;

b) The type and, if possible, quantity of the good or service to be supplied and the place of delivery, or the type of construction work and its execution site, or the type of consultancy service and its location;

c) The procurement method and the tender identification number;

d) The prerequisites that candidate bidders eligible to participate in the tender must fulfill;

e) The price to be paid to obtain the bidding document and the manner in which the document can be accessed;

f) The final deadline for submission of the bid document and the date and time of its opening;

g) A statement indicating that bidders or their representatives are entitled to be present at the opening of the tender;

h) The amount of the bid security;

i) Other matters deemed necessary by the government institution to be disclosed to bidders;

j) A statement that the government institution reserves the right to cancel the tender partially or fully.

3) The invitation to bid must be prepared in the language in which the tender is conducted, in accordance with the language in which the bidding document was prepared.

104. Bidding Document

Government Institutions:

1) Shall ensure in accordance with Article 44, Sub-Article (1) of the Proclamation that the bidding document they prepare is based on the standard bidding document prepared by the Bureau and incorporates the details listed under this directive;
2) The bidding document must clearly specify the chosen contract type—whether it is a lump-sum payment contract, a unit-rate payment contract, a cost-plus contract, or others—and must contain contract provisions suitable for such type;
3) When they find it necessary to use documents other than the standard bidding documents prepared by the Bureau, they may utilize specialized types of bidding documents upon obtaining the prior permission of the Bureau;
4) When preparing a bidding document, they must do so without making any alterations to the Instructions to Bidders and the General Conditions of Contract, but rather by modifying other sections of the document as appropriate according to the type and nature of the procurement;
5) They must prepare the bidding document using the government electronic procurement system or, as necessary, other operating systems;
6) The bidding document must be approved by the Approval Committee before it is floated to bidders;
7) The government institution may, as necessary, require a payment of not less than Birr two hundred (200) and not exceeding Birr one thousand (1,000) for the bidding document; for central framework procurements, it may require a payment of not less than Birr five hundred (500) and not exceeding Birr two thousand (2,000) for the bidding document; however, if the the government institution believes that the payment might restrict the participation of candidate bidders, it may provide the document free of charge.

105. Instructions to Bidders

1) Any government institution must include the Instructions to Bidders and the Bid Data Sheet, which forms part of it, as a constituent section of the standard bidding documents, and make it accessible to bidders using the government electronic procurement system or, as necessary, other operating and procurement systems;
2) While it is not permissible to make amendments to the Instructions to Bidders section of the standard bidding document prepared by the Bureau, any alterations or updates relevant to the Instructions to Bidders shall be incorporated into the Bid Data Sheet;
3) The Bid Data Sheet must incorporate the following main conditions:

a) A general description of the goods, construction works, consultancy services, or other services to be procured, the full name and address of the government institution, and the budgetary source of the procurement;
b) The requirements for domestic bidders wishing to participate in the tender to submit their tax clearance certificate, professional certificate, renewed business license, and other supporting documents deemed necessary by the government institution;
c) A specification that foreign bidders must submit, as appropriate, the company registration certificate or license issued to them by the country in which they are established;
d) The address and timeframe for requesting clarifications regarding matters that are not clear in the bidding document;
e) The required contents of the bid document to be submitted by bidders, the language in which it must be prepared, and the type and quantity of additional required evidence and forms specified within the standard bidding document;
f) The deadline for submission of the bid document and the specific date and time of the bid opening;
g) A statement declaring that any bid document submitted after the closing of the tender shall not be acceptable;
h) A requirement that bidders must complete and submit the anti-corruption commitment form attached to the bidding document, along with other required forms, confirming their adherence to the provisions enacted under Ethiopian laws regarding fraudulent acts and corruption;
i) Where samples of goods are required to be submitted by bidders, the specific timeframe and place for submitting the requested samples, and whether these samples will be returned or not returned to the unsuccessful bidders;
j) The methods to be utilized for evaluating the tender, the criteria used for such evaluation, and the point allocation assigned to each criterion as necessary, as well as the conditions and criteria for receiving proposals from competitors to determine the winning bidder in the event that two or more candidate bidders score equally in the evaluation;
k) The conditions under which price adjustments may be applied during contract execution;
l) The amount, type, and validity period of the bid security and contract performance security;
m) The validity period of the bid price, as well as the place and timeframe for delivery;
n) A statement indicating the detailed implementation of the special preference authorized under the Proclamation;
o) The procedural template showing how the technical and financial documents must be submitted separately;
p) If an advance payment is to be granted, the amount of the advance payment and the acceptable type of security;

q) A statement notifying bidders of their right to lodge complaints and appeals in accordance with the provisions of the Proclamation and this directive if they have grievances regarding the tender execution process, including the procedure for lodging such complaints;

r) A statement that if the government institution finds it necessary to increase or decrease the volume of supply specified in the bidding document prior to signing a contract with the winning bidder, it may increase or decrease the volume by up to 20% (twenty percent) without any alteration to the price offered by the winning bidder.

106. Technical Specifications (Statement of Requirements)

Government institutions must incorporate into the bidding document they prepare the technical specifications prepared in accordance with the conditions detailed under Article 18 of the Proclamation and Article 42 of this directive.

107. Bid Form and Price Schedule

1) Government institutions must include in the bidding document they prepare for a tender the bid form or schedule prepared by the Bureau and made available on the government electronic procurement system, as well as forms prepared by the government institution based on the nature of the procurement to be filled out by bidders, and other forms deemed appropriate to be incorporated into the standard bidding document;
2) In accordance with this Article, the price schedule form prepared by government institutions must be designed in a manner that enables a clear indication of price, taxes, and other matters related to price submission as necessary, and that can make the bid evaluation transparent and efficient;
3) The bid form to be prepared must, as much as possible, enable the candidate bidder to submit a clear competitive proposal, confirm its understanding of the bidding process, prevent acts that obstruct the tender, and ensure that the bidder assumes full responsibility for the competitive proposal it has submitted.

108. General and Special Conditions of Contract

1) Any government institution must make the General Conditions of Contract and Special Conditions of Contract documents prepared as part of the standard bidding document accessible to bidders by incorporating them into the bidding document.
2) Alterations cannot be made to the General Conditions of Contract of the standard bidding document. However, by cross-referencing the articles stipulated in the General Conditions of Contract, the Special Conditions of Contract may be modified according to the nature and type of the procurement to be executed strictly in the manner permitted by the General Conditions of Contract.

3) Without prejudice to what is stated under Sub-Articles (1) and (2) above, although the Special Conditions of Contract prepared by government institutions may vary according to the type of procurement, it must incorporate the following:
   a) Clearly indicating the obligations and responsibilities of the bidder and the government institution, and verifying that the obligations imposed on the office have a legal basis and are executable;
   b) Clearly setting out the implementation of the main processes followed by the contract execution as necessary, such as the delivery timeframe, packaging, transportation responsibility, price adjustment, payment execution, delivery and inspection procedures, warranty, and the like;
   c) Ensuring that the contract terms and provisions set out in the Proclamation and this directive to protect the interests of the government institution are properly incorporated into the contract.

109. Preparation of Qualification and Evaluation Criteria

1) The government institution must clearly show the criteria against which the bid documents will be evaluated in the Qualification and Evaluation Criteria section of the standard bidding document;
2) Although the bid evaluation criteria vary depending on the type of procurement, it must be implemented through one of the following two fundamental selection methods:
   a) By determining the minimum acceptable technical evaluation criteria for the procurement, and selecting the bidder that has submitted the lowest price from among those bidders who met the minimum technical criteria, after conducting a check for front-loaded and unbalanced pricing in accordance with Article 121 of this directive; or
   b) By determining the share of technical criteria capable of deciding the utility or economic value of the procurement, clearly showing the relative weight assigned to each criterion in the bidding document, conducting a technical evaluation based on these criteria, and selecting the winner that scored the highest total points combined from the technical and price evaluations after conducting the bid price evaluation for the bidders who passed the technical evaluation in accordance with the procedures specified under serial letter (a) of Sub-Article (2) of this Article;

3) The evaluation method specified under Sub-Article (2)(b) of this Article shall apply strictly to the procurement of consultancy services only;
4) Without prejudice to what is specified under serial letters (a) and (b) of Sub-Article (2) of this Article, when it is desired to utilize the life-cycle cost analysis method, the following conditions must be taken into consideration:
   a) Whether a unique value that is useful to the office and capable of creating a distinction among bidders can be offered when the item to be procured is a standard or graded supply;

b) Whether a value offered in addition to the minimum criteria set by the government institution brings an additional benefit, or the low or high utility of the additional value provided to the office;

c) Whether there are comparable goods capable of meeting the technical specifications at various levels from the perspective of creating an additional benefit if the good to be procured is ungraded;

d) Whether the item can be utilized for a long duration and requires different operational, maintenance, spare part, as well as disposal costs due to variations in the source of supply;

5) When the government institution believes that the current qualification status of the winning bidder must be verified through a post-qualification evaluation after identifying the winning bidder by evaluating the documents submitted by bidders in accordance with the criteria specified under this Article, it must indicate this requirement along with the criteria it will utilize for the post-qualification purpose in advance in the bidding document;
6) The criteria selected for comparison purposes in accordance with this Article must be designed to ensure they contribute to determining the utility provided by the good or service, and they must be given relative weight according to their level of contribution to determining the utility of the procurement.

110. Determining the Period for Which a Bid Remains Open to Candidate Bidders

1) When a government institution prepares a bidding document, it shall determine the final deadline for the submission of bid documents based on the following:

a) The time required for candidate bidders to prepare an acceptable bid document, aggregate data, analyze it, establish a joint venture or partnership as appropriate, obtain a manufacturer's authorization and power of attorney verification, and arrange other prerequisites necessary to participate in the tender;

b) The time required for the office to provide clarifications for questions that may be submitted by candidate bidders regarding the contents of the bidding document, as well as to make amendments;

c) The time required to provide samples if submitting samples is necessary for the procurement;

d) The time required for a construction site visit, particularly when it is a procurement of construction works;

2) Without prejudice to what is specified under Sub-Article (1) of this Article, the period for which a bid remains open to candidate bidders shall not be less than the days specified under Annex Number 6 of this directive.

111. Presentation of Samples

1) When it is impossible to prepare a technical specification, or when it is believed that the procurement can be better executed if a sample observation is included in addition to the

prepared technical specification, the government institution may additionally present a sample or require it to be presented;

2) When the government institution presents a sample itself and requires candidate bidders to supply based on the sample displayed for viewing:
   a) The sample presented by the government institution must not be limited to an item made by a single manufacturer or trademark; as much as possible, a variety of acceptable samples shall be displayed for viewing, and bidders must be notified that other goods having a quality standard similar to the displayed samples can also be supplied;
   b) It is necessary to ensure that the samples are placed in a location where candidate bidders can clearly view them and, to the extent appropriate, an expert capable of giving explanations about the sample is assigned;
   c) If the office prepares a technical specification in addition to the sample it displays for the viewing of candidate bidders, the specification to be prepared must, as much as possible, describe the presented sample and be aligned with the technical characteristics of the sample displayed for viewing;
3) When candidate bidders are required to present samples in accordance with the technical specifications provided to them:
   a) Candidate bidders must be made to clearly know the type, quantity, time, and manner of the samples to be presented;
   b) Samples must be presented before the tender is opened; however, if the candidate bidder dispatched the sample on time but it is delayed in the transportation process due to reasons beyond the candidate bidder's control, the government institution may grant additional sample submission time, provided it believes that this does not harm the execution of the procurement;

4) Where bidders are unable to physically present a complete sample and the government institution accepts the reason for their inability, it may permit them to submit information they have regarding the sample; this includes presenting a photograph of the sample or an obtained component of the sample; however, implementation in this manner can be applied only when it is verified that it does not create a difference in the process of selecting the best bidder and cannot create discrimination among candidate bidders;
5) The government institution has the responsibility to carefully handle and test the samples presented by bidders; however, bidders shall not be paid compensation if the sample they presented is destroyed or damaged due to the nature of the item when it is examined;
6) Notwithstanding the provision of Sub-Article (5) of this Article, if the samples presented by bidders are damaged, stolen, or lost due to defects in handling and utilization, distinct from reasons related to testing, the procuring government institution shall bear liability;
7) After the examination of the sample is conducted, samples shall be returned to the bidders; if bidders do not retrieve the samples they presented within 6 months from the date the

tender results are disclosed, the samples shall be confiscated and enter into government property;

8) Unless a different decision is granted by the government institution, the sample of the winning bidder must remain held as a sample until the time the procurement is completed, and the sample must be made to serve for comparison purposes during delivery.

112. Clarification or Amendment on a Bidding Document

1) Candidate bidders, in accordance with Article 45 of the Proclamation, may submit their requests for clarification or amendment on the bidding document prepared by the office to the government institution;
2) Government institutions must accept and respond to requests for clarification or amendment submitted by any candidate bidder fulfilling the conditions specified below:

   a) For a procurement where the minimum period a bid remains open to candidate bidders is 40 days as indicated under Annex 11 of this directive, for a request submitted up until 21 days remain before the deadline set for bid document submission expires;

   b) For a procurement where the minimum period a bid remains open to candidate bidders is 30 days, for a request submitted up until 14 days remain before the deadline set for bid document submission expires;

   c) For a procurement where the minimum period a bid remains open to candidate bidders is 25 days, for a request submitted up until 12 days remain before the deadline set for bid document submission expires;

   d) For a procurement where the minimum period a bid remains open to candidate bidders is 20 days, for a request submitted up until 10 days remain before the deadline set for bid document submission expires;

   e) For a procurement where the minimum period a bid remains open to candidate bidders is 10 days and below, for a request submitted up until 5 days remain before the tender closes;

3) The office shall not be compelled to respond to a request for clarification or amendment submitted in a timeframe less than the days stipulated under Sub-Article (2) of this Article;
4) When a request for clarification or amendment is submitted by candidate bidders within the time set under Sub-Article (1) of this Article, the office must issue its response within

3 working days before opening the tender through the system where the bidding document was made accessible;

5) Without prejudice to what is specified under Sub-Article (4) of this Article, if candidate bidders have a grievance regarding the response or amendment provided to them by the office, the office must keep the tender from closing or extend the bid closing date in accordance with Article 45, Sub-Article (5) of the Proclamation to enable them to lodge an appeal to the Board;
6) The response given to a request for clarification or amendment submitted by candidate bidders must be in writing and issued on the government electronic procurement system where the bidding document was made accessible or, as necessary, through other operating systems and on the website of the office;
7) Government institutions may amend the bidding document when they find it necessary to make amendments to the bidding document previously prepared by the office on the basis of requests for clarification submitted to them by candidate bidders;
8) Government institutions must issue any amendment that changes the content of the bidding document as an addendum bidding document on the government electronic procurement system where the invitation to bid notice was issued;
9) When government institutions make amendments to the bidding document as specified under Sub-Article (7) of this Article, and it is assumed that candidate bidders cannot prepare a bid document by incorporating the amendment made within the time remaining to close the tender, they must extend the bid closing date on the government electronic procurement system where the invitation to bid notice was issued or in the newspaper and on the website of the office.

113. Language of the Tender

1) The language in which the invitation to bid notice, the bidding document, and the tender itself are prepared by the procuring government institution must be in accordance with Article 16 of the Proclamation;
2) Where the bid documents and supporting evidence submitted by candidate bidders are prepared in a language other than the one authorized in the bidding document for the conduct of the tender, they must be translated by a legal translator, and the copy of the translation must be submitted along with the original document;
3) When the government institution verifies that there is a discrepancy between the language in which the document submitted by the bidder was originally prepared and the language authorized for the tender, it must reject the document, unless it believes that the discrepancy does not introduce a fundamental change to the substance of the bid.

114. Bidding Price

Bidders must ensure that the bidding price they offer is not based on the price of another bidder, and that it is a firm price that remains unchanged during the tender and the contract execution period.

115. Validity Period of the Bid Document

1) The government institution must carefully determine the period for which a bid document must remain valid and incorporate it into the bidding document; to determine the validity period of the bid document or the bid price, the office must take the following into consideration:

   a) The complexity of the procurement and the number of candidate bidders likely to participate in the tender;

   b) The time it may take to evaluate the procurement, to have it approved by the Procurement Approval Committee, and the overall tender execution process;

   c) The experience of the government institution in evaluating similar procurements;

   d) The price volatility conditions of the procurement in the market;

   e) The time required to resolve grievances or appeals if raised, and up until a contract is signed with the winning company;

2) Unless the office believes there are circumstances requiring the bid document to remain valid for a longer duration as specified under Sub-Article (1) of this Article, the validity period of the tender shall not exceed 60 (sixty) days starting from the date the tender is opened;
3) Government institutions must complete their procurement processes and sign contracts with the winning company within the validity period of the bid document; however, when the office realizes that the validity period of the price offered for the procurement is about to expire before the procurement process is finalized due to reasons beyond control, it must request bidders to extend their price validity period for additional days;
4) The additional days that bidders are requested to extend in accordance with Sub-Article (3) of this Article must be limited strictly to the number of days sufficient for the government institution to finalize the remaining procurement process; however, if bidders refuse to extend their price validity period for any reason, they shall be made to exit the

tender competition without requiring the forfeiture of the security they deposited to secure the bid;

5) Bidders who accept the request presented to them to extend their price validity period must confirm their acceptance in writing, specifying the date until which they have extended the validity period; correspondingly, they must extend the validity period of the bid security deposited for this tender or present a new security;
6) A bidder that fails to extend the validity period of its bid security as described under Sub-Article (5) of this Article shall be deemed unwilling to extend its price validity period and shall be excluded from the tender competition.

116. Bid Security

1) Except for consultancy services and price quotation procurements, government institutions must clearly determine and indicate the bid security requested for each procurement in the bidding document when they utilize open, restricted, or two-stage bidding procurement methods; however, if the office deems it necessary due to various reasons, it may require bidders to deposit a bid security even for consultancy service procurements;
2) Notwithstanding the provision of Sub-Article (1) of this Article, the office may require bidders to sign and submit a bid securing declaration form in lieu of a bid security for procurements executed under Article 30, Sub-Article (8) of the Proclamation, electronic reverse auctions, and other procurement methods depending on the nature and urgency of the procurement;
3) The government institution, based on the total estimated value of the procurement, must determine a bid security monetary amount of not less than 0.5% and not exceeding 2%, and disclose it in the invitation to bid and the bidding document; accordingly, the amount of the bid security determined shall not exceed Birr 5,000,000 (five million Birr);
4) Government institutions must take the following conditions into consideration to determine the amount of the bid security as specified under Sub-Article (3) of this Article:
   a) High price volatility conditions of the good/service to be procured;
   b) The presence of a sufficient number of competitors participating in the tender;
   c) Ensuring that the security requested from bidders does not become a barrier to their participation in the tender;
   d) Incentivizing the bidder selected as the winner to be willing to sign the contract;
   e) Ensuring that the security is adequate to compensate for the damage caused to the office if the bidder selected as the winner refuses to sign the contract;

5) The choice of bid security to be submitted under this Article must primarily be in accordance with what is specified in the bidding document or through the government electronic procurement system; however, the bid security submitted in this manner may, at

the choice of the bidder, be a certified payment order (CPO) issued by a recognized bank, an unconditional bank guarantee, or a bank-confirmed letter of credit;

6) The validity period of the bid security submitted by bidders must remain valid for at least an additional 28 days beyond the final expiry date of the bid price validity;
7) Bid securities, performance securities, and advance payment guarantees submitted by foreign bidders that are issued by banks outside of Ethiopia must be confirmed by domestic banks and must be unconditional.

117. Bid Document Submission

The tender must remain open to enable bidders to submit their bid documents starting from the date the invitation to bid is issued up until the final closing hour.

118. Bid Opening

1) The tender shall be opened on the date and time specified in the invitation to bid or, if an amendment has been made, on the date and time specified in the amendment; upon opening the tender:
   a) It shall be conducted in a manner where bidders or their legal representatives can directly follow the tender proceedings; however, if a bidder chooses not to follow it directly at the time the tender is opened, it shall not obstruct the opening of the tender;
   b) An internal audit expert, an anti-corruption officer, as well as any representative of a media organization or other persons with an interest or benefit wishing to participate as observers in the bid opening process shall be permitted to follow the bid opening system online or in person;
   c) At least 3 experts from the procurement department must participate in the bid opening process; to the extent possible, experts represented from the department utilizing the procurement may be present at the opening proceedings;
2) The procurement department of the government institution must maintain minutes of the bid opening process; these minutes shall record the name of the bidders, the prices they offered, and other necessary points raised during the bid opening process; the minutes must be provided to the bidders who participated in the tender upon request;
3) Any bid document that was not opened and read out to bidders during the bid opening proceedings shall not serve for subsequent competition;
4) No bidder shall be excluded from the tender during the bid opening process;
5) Any bidder must transmit its bid opening key 1 hour prior to the bid opening process; if it fails to transmit it within the specified timeframe and fails to submit it within the waiting period communicated by the office to the bidder, the bid document submitted by this bidder shall not be opened; any bid document arriving late after the final deadline date and time

for bid document submission must be returned to the bidder immediately without opening its enclosure;

6) If the tender is one where the technical and financial documents were requested to be submitted together, government institutions:
   a) By opening the bid document submitted by each bidder, shall read out the name of the bidder;
   b) The pre-qualification data submitted by the bidder, the price it offered for the contract, and the amount and conditions of its price discounts;
   c) The type and amount of the bid security, and they shall read out other conditions assumed to help recognize the relative ranking of the bidders;

7) If the technical and financial documents were requested to be submitted separately:
   a) During the bid opening proceedings, the proposal contained in the technical document shall be opened, and points that can be disclosed at the time, including the identity of the bidder, must be read out;
   b) Bidders shall retain the confidential price opening key they hold until the price proposals are opened;
   c) In accordance with the invitation extended to them, the price competitive proposals of competitors who passed the technical evaluation shall be opened transparently in their direct presence through the electronic system or, as necessary, through other operating systems;
   d) By opening the proposals of competitors who passed to the price competition as specified under serial letter (c) of Sub-Article (7) of this Article, the name of the bidder, the price it offered for the procurement, the amount and conditions of its price discount if any, and other similar matters having a direct relationship with price must be made known to the bidders.

119. Pre-Qualification Evaluation and Comparison of Competitors

1) The government institution may consider the tender complete and pass it to the subsequent detailed evaluation process only when the bid document submitted by the bidder was opened during the opening proceedings and is found to fulfill the required checklist points specified under Article 17 of the Proclamation, as well as under this directive and the bidding document;
2) Without prejudice to the provision of Sub-Article (1) of this Article, government institutions must not pass bidders who fail to fulfill the following to the detailed evaluation:
   a) A bidder that has not deposited the requested bid security;
   b) If they have failed to submit the legal documents requested by the office;
   c) A bidder that has failed to fulfill other conditions set out to pass to the detailed evaluation;

3) Notwithstanding the provisions of Sub-Article (2) of this Article, even if bidders fail to submit the legal confirmation documents requested under the Proclamation and the bidding document along with their bid documents, the office may treat it as a minor deviation and allow the candidate bidder to enter the subsequent evaluation process by causing it to submit the documents within at most three working days after the bid opening, provided that the documents were prepared or issued prior to the bid opening date.

120. Detailed Evaluation

1) Government institutions must conduct a detailed evaluation in accordance with this Article strictly for those bidders who passed the pre-qualification evaluation set out under the Proclamation, this directive, and the bidding document;
2) Where the tender is one where the technical and financial documents were requested to be submitted together:

   a) When government institutions conduct a detailed evaluation, they must first perform a technical evaluation to verify that bidders who met the pre-qualification criteria in accordance with Article 109 of this directive satisfy the minimum quality criteria requested by the office and other essential criteria set out in the bidding document to evaluate the qualification of bidders;

   b) Price competition must be conducted strictly among those bidders who met the quality and bidder qualification evaluation criteria requested by the office in accordance with serial letter (a) of this sub-article;

   c) The government institution shall select the bidder that has offered the lowest price as the winner of the tender, after verifying that it met the technical evaluation criteria and taking into consideration the provisions stipulated regarding front-loaded and unbalanced pricing under Article 121 of this directive;
3) Where the tender is one where the technical and financial documents were requested to be submitted separately, when the procuring government institution conducts the technical evaluation of bidders who passed the pre-qualification evaluation in accordance with this directive:

   a) The office must evaluate whether bidders who passed to the technical evaluation met the technical evaluation criteria specified in the bidding document, and must disclose the results to all bidders simultaneously after the obtained results are approved by the authorized organ;

   b) The notification transmitted to bidders who failed the technical evaluation must specify the reason why they failed the technical evaluation, as well as state that they are entitled to lodge a complaint if they have grievances; if a complaint is lodged against the technical evaluation, the price bid document shall not be opened until the complaint reaches a final resolution following the procurement law;

c) If a complaint was lodged, the bid security deposited by candidate competitors who were not accepted in the technical competition shall be returned after the matter reaches a final resolution;

d) The notification transmitted to bidders whose technical results were accepted must specify the date and time of the opening; the notification must be made to reach them at the same time and must grant sufficient time enabling all willing bidders to be present at the bid opening proceedings of the price bid document;

4) If two or more bidders score equal points during evaluation, preference shall be granted to domestic products or services in accordance with Article 14 of the Proclamation;
5) Without prejudice to what is indicated under Sub-Article (4) of this Article, when there are bidders who score equal points or are equally preferred, the office may cause the tied bidders to submit their final competitive proposals on specific criteria to determine the winner; to do this:

a) The number of criteria upon which the tied bidders compete shall not exceed three and must be capable of being expressed numerically;

b) The criteria must be specified in the bidding document, particularly in the bid data sheet;

c) When it is verified that the tied bidders are equal, this condition shall be explained to them, and they shall be requested to submit their final competitive proposals based primarily on the criteria specified in the bidding document;

d) To the extent possible, the final competitive proposals submitted by the tied bidders shall be opened in the presence of the tied bidders, and the final competitive proposals they submitted shall be read out to them;

e) The final competitive proposals submitted by the tied bidders shall be evaluated, and the bidder that submitted the better proposal shall be selected as the winner of the tender;

f) Without prejudice to what is indicated under serial letter (e) of this sub-article, if the tied bidders fail to submit a final competitive proposal or if they tie again in the evaluation conducted based on the final competitive proposals they submitted, the winning bidder must be identified by lot, to the extent possible in the presence of the tied bidders;

6) If only a single bidder participates in the tender competition, it may make the single participating bidder the winner without requiring a re-advertisement of the tender, upon verifying that the competitive proposal it submitted is satisfactory, that the price is a competitive market price, and that there are no conditions in the bidding document that restrict the participation of other competitors.

121. Conducting Price Evaluation

1) Where the tender is one where the technical and financial documents were requested to be submitted separately, price competition shall be conducted strictly among those bid documents that have been accepted after meeting the minimum technical evaluation criteria specified in the bidding document;

2) During the detailed price evaluation, unconditional price discounts offered by bidders shall be taken into consideration.

122. Correction of Arithmetical Errors

1) The government institution may correct arithmetical errors discovered during examination; the government institution must immediately notify the concerned bidder of such corrective measures;
2) If the bidder, in accordance with Article 46, Sub-Article (3) of the Proclamation, does not agree to the arithmetical correction, its bid security shall be forfeited and it shall be made to exit the tender;
3) Without prejudice to the provision of Sub-Article (2) of this Article, arithmetical calculations performed for the procurement of goods, services, and non-consultancy services that exceed 10% (ten percent) of the bid price offered by the bidder shall result in exclusion from the competition;
4) Except where specifies otherwise in the bidding document for evaluation purposes when the procurement is executed through an international competitive bidding method, the price offered by bidders and the bid evaluation conducted must incorporate taxes; however, where it is unclear whether tax is included or excluded in the bidder's price, the price shall be deemed to include taxes;
5) Dependent upon the evaluation method chosen, the bidder selected as the winner in a tender where technical and financial documents were requested to be submitted separately shall be the bidder that scored the highest combined points from the total technical and financial evaluation, or the bidder that offered the lowest competitive price after meeting the technical evaluation criteria;
6) Without prejudice to Sub-Article (3) of this Article, concerning the procurement of construction works, any contractor participating in the construction works procurement must accept arithmetical calculation corrections presented by the office in accordance with Article 49, Sub-Article (2) of the Proclamation, upon fulfilling the conditions specified below:

   a) The arithmetical calculation correction performed by the office is executed following the systems specified in this directive and the bidding document;

   b) The arithmetical calculation carried out does not exceed 5 percent of the total bid price offered by the contractor;

   c) The contractor's price obtained after arithmetical error corrections are made is found to be the winner of the tender due to being relatively lower than other contractors;

7) Even if the bid document submitted by the bidder contains arithmetical calculation omissions, the government institution may accept the tender as complete provided that it does not introduce a material change and deviation relative to the required points detailed in the bidding document; however, any deviation must, to the extent possible, be expressed in monetary terms and taken into consideration during bid evaluation and competition;
8) Without prejudice to the conditions set out in the standard bidding document, for the implementation of Sub-Article (7) of this Article, a deviation may be considered a material deviation if it fulfills the conditions specified below:

   a) If the bid document were accepted, it is assumed it would create a substantial deviation in the scope, quality, or performance of the goods and related services specified in the contract;

   b) Where it creates an inconsistency with the bidding documents and misaligns the rights of the procuring entity or the obligations of the bidder specified in the contract; or

   c) If the tender were accepted after forcing the correction of fundamental omissions observed during bid evaluation, it is estimated it would create discrimination among bidders or alter the outcome of the tender.

123. Front-Loaded (Broken) or Exaggerated Bidding Prices

1) Concerning the procurement of goods, the bidding price offered by the bidder shall be considered an exaggerated bidding price when the offered price exceeds by 10% (ten percent), and a front-loaded (broken) bidding price when the offered price is less than 30% (thirty percent), relative to the market price obtained sequentially from the price data available at the Ethiopian Statistics Service, or from a recognized manufacturer upon confirmation that the Ethiopian Statistics Service price data is unavailable, or otherwise from the central market price study executed by the Bureau based on requests submitted to it by offices;
2) Concerning the procurement of consultancy and non-consultancy services, the offered price shall be considered an exaggerated bidding price when it exceeds by 10% (ten percent), and a front-loaded (broken) bidding price when it is less than 20% (twenty percent), relative to the market price obtained from the central market price study executed by the Bureau based on requests submitted to it by offices;
3) Concerning construction procurement, the bidding price offered by the bidder shall be considered an exaggerated bidding price when the offered price exceeds the engineering estimate value by 15% (fifteen percent), and a front-loaded (broken) bidding price when the offered price is less than the engineering estimate value by 20% (twenty percent);

4) The engineering estimated value utilized for comparison purposes in accordance with Sub-Article (3) of this Article must be prepared by the procuring government institution, and all inputs for the construction goods and services must be prepared based on the price data available at the Ethiopian Statistics Service, or from a recognized manufacturer upon confirmation that the Statistics Service price data is unavailable, or otherwise from the central market price study executed by the Bureau based on requests submitted to it by offices, and it must be updated within at least three months;
5) When the price offered by the bidder in accordance with Sub-Articles (1), (2), and (3) of this Article is found to be exaggerated relative to the current market price distributed by the Ethiopian Statistics Agency, or from the manufacturer, or from the centrally studied price, or when the procurement is a construction works procurement and the offered price is found to be highly exaggerated or front-loaded (broken), the government institution must reject the tender or the bid document fully or partially at any time prior to signing a contract in accordance with Article 19 (1), serial letter (d) of the Proclamation;
6) The government institution must not exclude a bidder from the competition solely due to the offered bidding price being front-loaded (broken) without performing further examination as set out in this directive and the standard bidding document;
7) To enable the government institution to conduct further examination on the offered bidding price, it must request the bidder that offered the front-loaded (broken) bidding price to submit a detailed explanation and related documents;
8) In accordance with Sub-Article (3) of this Article, the explanation requested by the office may incorporate the following conditions, in addition to other points disclosed in the standard bidding document:

   a) Whether the bidder has a convincing reason enabling it to finalize the procurement at the offered price in a manner that balances quality and fulfills the needs of the office;

   b) Whether it possesses a unique method enabling it to execute the work or deliver the supply;

   c) Whether it has a unique favorable condition or professional solutions enabling it to perform the work or deliver the supply at this price, as well as;

   d) Declarations and documents showing the contracts it entered into and its performance previously within the past two years;

9) Without prejudice to the decisions taken by the office in this regard under the provisions of the Proclamation, this directive, and the standard bidding document, the government institution must notify the bidder of its decision regarding the acceptance or rejection of the proposal submitted by the bidder within 10 working days from the date it received the explanation from the bidder;

10) If it rejects the proposal submitted by the bidder in accordance with Sub-Article (9) of this Article, the government institution must reject the tender or the bid document fully or partially at any time prior to signing a contract in accordance with Article 19 (1), serial letter (d) of the Proclamation.

124. Unbalanced Bidding Price

1) Without prejudice to other procedures set out in the standard bidding document for this purpose, when the price offered by the winning bidder is an unbalanced bidding price, the government institution may request the bidder to submit the detailed price of each work or service showing how it arrived at the total price, to facilitate its decision-making;
2) When the price and the work are found to be unbalanced based on the request presented by the office to the bidder in accordance with Sub-Article (1) of this Article, the government institution must request an additional contract performance security not exceeding 5% (five percent);
3) When the price and the work submitted are unbalanced based on the request presented by the office to the bidder in accordance with Sub-Article (1) of this Article, or if the bidder refuses to balance it, the office should take the precautionary measures specified in the Proclamation, this directive, and the standard bidding document;
4) For the implementation of this Article, "unbalanced bidding price" means a price offered by a bidder in any tender for a specific part of the total work or service that is disproportionate, highly exaggerated, or highly low relative to the volume of the work.

125. Discussions with Bidders and Clarifications Requested by the Office

1) Following the opening of a tender, no communication of any kind can be conducted with bidders at any stage of the procurement process, except for requesting clarifications on points enabling the evaluation of competitive proposals and conducting negotiations related to contract execution;
2) Notwithstanding what is specified under Sub-Article (1) above:
   a) When it becomes necessary to conduct discussions with bidders due to the unique nature of a two-stage bidding method, communicating on minor matters that do not affect price, as well as;
   b) Discussions can be conducted with bidders during quality-based consultancy service procurements carried out in accordance with this directive.

126. <u>Approving a Tender</u>

1) The procurement department executing the procurement or, as necessary, the temporary team established to evaluate the tender, must complete the evaluation within the validity period of the bid price offered by bidders and submit the result along with recommendations to the body authorized to approve the procurement;
2) In accordance with the Proclamation and this directive, the body authorized to approve the procurement shall grant a decision upon verifying that the procurement followed the government procurement execution system and that the bid evaluation aligned with the criteria specified in the bidding document; the decision may be one of the following:

   a) Accepting the evaluation report fully and permitting subsequent executions to be carried out;

   b) Rejecting the report and causing the evaluation to be rectified and re-conducted; or

   c) Causing the procurement to be cancelled when the conditions set out under the Proclamation, this directive, and the bidding document to cancel a tender are met depending on the circumstances;

3) When the body approving the procurement finds it necessary, it may cause the team or committee that conducted the evaluation to provide clarifications on the submitted evaluation report;
4) In accordance with what is specified under serial letter (b) of Sub-Article (2) of this Article, if the body approving the procurement rejects the submitted evaluation recommendation, it shall cause it to be returned to the team that previously conducted the evaluation by specifying the reason; the evaluating team must re-conduct the evaluation in accordance with the direction granted by the approving body and submit the rectified report;
5) Notwithstanding the provision under Sub-Article (4) of this Article, if the evaluating team or any member of the evaluating team does not agree with the direction or evaluation result granted by the procurement approving body, the dissenting opinion shall be expressed on the evaluation report and the procurement shall be executed based on the decision granted by the procurement approving body;
6) Without prejudice to the provisions of this Article, if a difference of opinion arises between the Approval Committee and the head of the office based on a complaint lodged against the tender outcome, the decision of the head shall be applicable.

127. <u>Notifying Tender Results and Winner Status</u>

1) Government institutions must notify the detailed results of the tender in accordance with Article 52, Sub-Article (1) of the Proclamation and upload them using the government electronic procurement system or other operating systems;
2) The disclosure of tender results conducted by offices for a tender where technical and financial documents were requested to be submitted together, as well as the disclosure of tender results conducted for a tender where technical and financial documents were requested to be submitted separately, must follow this directive;
3) The results of the tender must be disclosed in detail in a manner that enables bidders to lodge complaints if they have grievances;
4) In addition to what is specified under Article 52 of the Proclamation, the notification of winner status transmitted to the winning bidder to sign a contract must incorporate the following:

   a) A statement that the government institution has accepted the competitive proposal submitted by the bidder;

   b) The total price at which the contract shall be executed;

   c) The final deadline date for delivery;

   d) The liability that the bidder will incur under the law if it refuses to sign the contract; and

   e) Other necessary conditions;

5) The notification of winner status transmitted to the bidder in accordance with Sub-Article (1) of this Article cannot serve as a contract between the government institution and the bidder;
6) If the bidder that won the tender refuses to sign the contract, or even if it signs the contract, fails or is unwilling to deposit the contract performance security in accordance with the provisions of the Proclamation and this directive, the government institution may make the second-placed bidder the winner or issue a new tender, after evaluating the advantage it yields in advance and verifying that the price is current and viable;
7) To verify that the price is current and viable in accordance with Sub-Article 6 of this Article, it must take into consideration the conditions set out concerning exaggerated prices under Article 121 of this directive;
8) The government institution must return the bid security deposited by competitors upon verifying that the following conditions are met:

a) Where a contract is signed with the winning bidder and the bidder has provided the contract performance security;

b) Where the validity period of the bid security has expired for an unsuccessful bidder or for a bidder that refused to extend the validity period of its bid security.

128. <u>Post-Qualification (Post-Evaluation)</u>

1) Prior to awarding a contract to the winning bidder, government institutions may, as necessary, conduct a post-qualification evaluation to verify the accuracy and viability of the data submitted and the commitments entered into under the tender;
2) The post-qualification evaluation may focus on verifying the legal status, financial capacity, and technical and relevant experience declared by the highest-scoring bidder in the tender; evaluating whether the method, work plan, resources, and timeframes provided by the bidder are realistic and attainable; and assessing whether the price structure provided by the bidder aligns with market prices and reflects the intended scope of work;
3) Government institutions may utilize various methods to conduct the post-qualification evaluation, including the following:

a) Examining supporting documents submitted by the bidder or obtained from independent sources;

b) Visiting the facilities or project sites of the bidder to evaluate their capabilities and resources;

c) Conducting interviews with key personnel or references of the bidder;

d) Requesting the bidder to submit clarifications or additional information related to its bid;

4) Government institutions must clearly specify in the bidding documents that a post-qualification evaluation will be conducted, the scope and methods of the post-qualification evaluation, the criteria used to evaluate the post-qualification results, the potential consequences of failing the post-qualification evaluation, the timeframe within which the post-qualification evaluation will be conducted, and the obligation of the bidder to fully cooperate with the post-qualification process;
5) During the post-qualification evaluation, if the winning bidder is requested to submit concrete documents within 15 days and fails to do so, or if the documents it submits are found to be false, the tender shall be rejected;

6) At this time, the procuring entity shall pass to the bidder that offered the lowest price after fulfilling the requirements of the bidding document in the second stage, and shall conduct the necessary post-qualification evaluation on that bidder in an identical manner to verify its qualification.

Chapter Eight

Procurement Contract Administration and Dispute Resolution

129. General Provisions

1) In accordance with Article 55, Sub-Article (2) of the Proclamation, any procurement contract or contract amendment executed by a government institution must be in writing;
2) The contract shall be based on the full agreement between the procurement body and the supplier, and all prior communications, negotiations, and agreements between the contracting parties shall be replaced by this contract;
3) Unless otherwise specified in the contract, contracts entered into by government institutions shall be governed by the general provisions of the Civil Code concerning contracts and the specific provisions concerning administrative contracts, as applicable, and the contract shall be governed by and interpreted in accordance with the laws of the Federal Democratic Republic of Ethiopia.

130. Preparation of Procurement Contracts

1) The contract document prepared between the contracting parties must include the general and special conditions of contract which form part of the standard bidding document prepared by the Bureau, as well as other documents forming part of the contract, and must be reviewed and commented upon by a legal expert and the relevant departments, as necessary;
2) Government institutions may, when they find it necessary to use contract documents other than those prepared by the Bureau, use specific types of contract documents by obtaining prior permission from the Bureau;
3) The prepared contract document must ensure that the obligations imposed on the contracting parties have a legal basis and are enforceable;
4) As necessary, the document must clearly indicate the obligations and responsibilities of the bidder and the government institution, and the necessity of ensuring that the obligations imposed on the government institution have a legal basis and are enforceable must be commented upon by a legal expert as well as the relevant departments;

5) The prepared contract document must contain the basic contractual provisions of the Proclamation and this directive, the main rights and obligations of both contracting parties, safeguard the interests of the government institution, and must not unfairly ease or complicate the rights or obligations of the supplier;
6) The government institution must ensure that the prepared contract documents are mutually supportive, non-contradictory, and clear;
7) The prepared contract document must be sent to the supplier prior to the signing of the contract, and the government institution must ensure that the supplier is given sufficient time to understand the terms and phrases of the contract;
8) Comments provided by the supplier on the contract document may be incorporated into the terms and phrases of the contract upon mutual agreement of the contracting parties.

131. Preconditions of Contract

Prior to signing the contract, the government institution shall ensure that the following conditions are met:

1) The supplier possesses the current capability to meet the qualification criteria set forth in the Proclamation and the directive to sign the contract;
2) The type and quantity of the procurement to be executed, the contract price, the delivery time, adequate budget, and other preconditions necessary for the effectiveness and efficiency of the contract performance are fulfilled;
3) The winning result of the tender has been disclosed to all bidders in accordance with the law, and any complaint or appeal filed has received a final resolution;
4) The contract document has obtained the approval of the head of the government institution or the official delegated by him to sign the contract.

132. Contract Signing

1) Any government institution must sign the contract document prepared for this purpose with the winning bidder, which contains the agreed terms and special conditions of the contract;
2) Unless a contract is signed between the government institution and the winning bidder, a contract shall not be deemed signed merely by the disclosure of the winning bidder;
3) The contract signed between the government institution and the winning bidder shall become valid only when both contracting parties confirm their agreement with their signatures;

4) The government institution must carefully examine the responsibilities and obligations set forth in the contract document, and must not sign a contract by accepting obligations that cannot be performed at the level of the government institution;
5) Subject to Sub-Article (4) of this Article, the winning bidder must appear and sign the contract within 15 days from the date it was notified of its win; the government institution that issued the tender shall not sign a procurement contract before the expiry of 7 working days from the date it disclosed the results of the tender or the complaint to the bidders;
6) The contract to be made between the winning bidder and the government institution must clearly indicate the responsibilities of both parties, and must additionally include the following matters:

a) The type, quality, quantity, mode of supply, or delivery time of the goods, construction sector work, or consultancy and other services to be provided under the contract, the total and unit price to be paid, the terms of payment, and the payment schedule;

b) The date on which the contract period begins to count;

c) If a contract amendment is to be made, the manner in which the contract amendment shall be conducted;

d) It must specify whose responsibility it will be to monitor and execute third-party services such as transport, insurance, transit, and similar activities, and such responsibilities must be carried out by the body that can perform them with better efficiency;

e) It must clearly indicate in the contract the price discount or other conditions indicated by the supplier in its bidding document and their implementation;

f) The procedure for resolving disputes that arise during the performance of the contract must be specified;

g) For supplies delivered from abroad, the share of the amount to be paid in foreign currency out of the total contract amount, and for domestic supplies, the amount to be paid in Birr must be specified separately;

h) The procurement documents that form part of the contract and the document that shall have precedence in the event of a discrepancy between them;

i) The conditions under which the performance security held for contract execution may be forfeited;

j) The measures to be taken for the delayed period if the supplier fails to complete and deliver the goods, consultancy service, construction sector work, or service within the time specified in the contract; as well as,

k) The communication protocol that should exist between the government institution and the supplier, and other matters necessary for the performance of the contract.

133. Responsibility of Contracting Parties

1) Without prejudice to other rights and obligations specified in the Proclamation, this directive, and the contract document, the supplier shall have the following responsibilities:

a) To perform the supply of goods, services, or construction work within the contract period in accordance with the type, quantity, quality standard, and other obligations specified in the contract;

b) To take full responsibility for the activities performed during the execution of the contract;

c) To respect the laws in force in Ethiopia and to abide by the code of conduct set forth in the Proclamation, the directive, and the contract.

2) Without prejudice to other rights and obligations specified in the Proclamation, this directive, and the contract document, the government institution shall have the following responsibilities:

a) To request and provide supports, assistances, and permissions from the relevant bodies when it finds it necessary for the efficiency and effectiveness of the contract;

b) To effect the appropriate payment in a timely manner upon verifying that the supplier has fulfilled its obligations in accordance with the contract;

c) To provide timely evidence confirming that the supplier is fulfilling its contractual obligations;

d) To give a prompt response in accordance with the law and the contract to any request submitted by the supplier regarding contract performance.

134. Disclosure of Contract

1) Except for confidential procurements executed in accordance with the Proclamation and this directive, the government institution must disclose the main contract information to the public in accordance with Article 57 of the Proclamation;
2) The form prepared by the Bureau for this purpose shall at least state the following conditions:

a) The title of the contract;

b) The procurement method, type, and quantity;

c) The full name and address of the supplier, as well as beneficial ownership information;

d) The full name and address of the government institution; and

e) The contract price of the procurement, and the commencement and completion time of the contract.

135. Amendment of a Contract

1) In accordance with Article 55, Sub-Article (2) of the Proclamation, any procurement contract or contract amendment executed between the government institution and the supplier must be in writing;
2) Contract amendments may be made as appropriate during the execution of the contract, provided that the contract amendment to be made does not prejudice the interest of the government institution and does not grant a special benefit to the supplier in comparison to other candidates who competed in the tender;
3) Any amendments made to the contract must be executed in writing and by the authorized bodies of the contracting parties; the contract variations made in writing shall be considered part of the original contract document for subsequent performance;
4) The contract amendments made in writing shall become effective starting from the date specified on the signed written document;
5) Unless explicitly agreed upon, it shall not have retroactive effect;
6) Changes due to technology in the goods or products supplied during contract performance may be included through a contract amendment upon the request of the government institution or the supplier, provided that they are not less than the quality standard specified in the contract;
7) Unless otherwise permitted in the Proclamation and this directive, an amendment made in accordance with the provisions of this Article shall not cause an increase in the total contract price.

136. Performance Security

1) Except for proforma invoices, rental service procurements of property remaining under the control of the government institution, procurements required to be executed from a government budgetary government institution by covering costs, and cash purchases, the government institution must receive a performance security for any other procurement contract;
2) Notwithstanding the provisions of Sub-Article (1) of this Article, the government institution must cause the signing of a performance security commitment form in accordance with Annex 8 of this directive for proforma invoices, rental service procurements, and cash purchases;
3) The winning bidder must sign the contract by presenting a performance security to the government institution amounting to at least 10% (ten percent) of the contract price in the currency of payment, in accordance with the types of securities specified as acceptable for bid security under Article 114 Sub-Article (5) of this directive;
4) To enable the government institution to forfeit the security in the event that the supplier fails to fulfill its obligations under the contract, the performance security submitted by the bidder must remain valid for at least an additional 28 days beyond the contract period;
5) When the government institution verifies that the supplier has failed to perform in accordance with the contract, it must fully forfeit the performance security deposited by the supplier under Sub-Article (3) or take measures in accordance with the performance security commitment form;
6) Notwithstanding the provisions of Sub-Article (5) of this Article, the performance security may be returned to the supplier if the procurement approval committee of the government institution believes that the unfulfilled contract obligation of the supplier causes no damage or additional cost to the government institution and was not due to the negligence of the supplier;
7) The government institution must maintain complete documentation of the measures it takes under Sub-Article (6) of this Article, present it when requested by the Bureau or another relevant legal entity, and justify the appropriateness of the procedure;
8) Notwithstanding the provisions of Sub-Article (3) of this Article:

   a) For procurements executed from domestic construction sector contractors or manufacturers of medicines and medical equipment, an unconditional insurance guarantee submitted from a recognized insurance company shall be acceptable;

   b) For consultants engaged in providing consultancy services, professional indemnity insurance may be required where it is anticipated that damage could be caused to the government institution during the consultancy service process, and domestic consultancy service providers may be required to present a conditional performance security from a recognized insurance company;

c) Micro and small enterprises must submit a letter of support from the institution that organized them in lieu of a performance security as specified in this directive; the letter of support presented in this manner must specify the guaranteed amount of money and be signed by the head of the institution that organized the associations;

d) Insurance companies that win tenders issued to procure insurance services may use the money they have deposited as a reserve with the National Bank of Ethiopia as a performance security; however, they must submit confirmation from the Bank that they have sufficient reserves for the security deposited in this manner;

9) Unless there is a specific agreement between the two contracting parties or otherwise provided in the Proclamation and this directive, the performance security held must be returned as soon as the supplier fully completes its contractual obligations.

137. Effecting the Contract

1) Unless exceptional circumstances arise, government institutions must ensure that contract agreements made with suppliers are put into effect within their scheduled timeframe;

2) Unless otherwise specified in the contract, the contract shall not enter into effect until the winning bidder presents an acceptable performance security in accordance with the provisions of the Proclamation and this directive;

3) To implement the provisions of Sub-Article (1) above, and without prejudice to the preconditions set out in the contract, the government institution must perform the following activities:

a) If the contract mandates an advance payment, effect the advance payment in a timely manner by ensuring that the supplier deposits an advance payment guarantee as specified in this directive;

b) For procurements requiring a bank-confirmed payment document (Letter of Credit) to be opened, quickly open the bank-confirmed payment document upon verifying that the appropriate formalities are fulfilled;

c) Execute additional activities required to be performed by the government institution in a timely manner in accordance with the contract.

4) Government institutions must identify the activities to be performed by the supplier to make the contract effective, and follow up to verify that the supplier executes the activities in a timely manner in accordance with the contract;

5) Government institutions must record the date on which the preconditions of the contract are fulfilled and the contract begins to be effective, and where necessary, notify the supplier of the same.

138. Monitoring Contract Performance

1) Government institutions must identify the entity that monitors contract performance, or when contract monitoring is to be performed jointly by various entities, ensure that such entities clearly know their functions;
2) The entity of the government institution monitoring contract performance must follow up, using the form set out in Annex 9 of this directive, to ensure that the main activities performed by the supplier under the contract are being carried out as specified in the contract;
3) During contract performance monitoring, government institutions must specifically perform the following activities:

   a) Accept acceptable requests for amendments to bank-confirmed payment documents and provide prompt responses;

   b) Exercise caution and follow up to ensure that the validity periods of performance securities, bank-confirmed payment documents, and quality guarantees do not expire before the appropriate service is obtained;

   c) Monitor and report that construction works are built within their set time limits, and that supplies of goods and services are executed within the contract period;

   d) Exercise maximum caution to prevent any claims from suppliers related to contract performance.

4) The government institution must identify services obtained from third parties during contract performance and ensure that such services are provided in a manner that safeguards the interest of the government institution and supports the effectiveness of contract performance.

139. Advance Payment Disbursal

1) Depending on the necessity of government performance, an advance payment of up to 30% (thirty percent) of the total contract price may be granted; the amount of advance payment to be granted must be specified in the Bid Data Sheet and Special Conditions of Contract;
2) Except for proforma invoices, procurements executed via electronic bidding, rental service procurements, procurements required to be executed from a government budgetary government institution by covering costs, and cash purchases, suppliers must present an advance payment guarantee equivalent to the advance payment they request under the contract, which, at the choice of the supplier, shall be a certified payment order (CPO) or an unconditional bank guarantee issued by a recognized bank;
3) Notwithstanding the provisions of Sub-Article (2) of this Article, domestic construction companies as well as medicine and medical equipment manufacturing industries may present a conditional advance payment guarantee from a recognized insurance company;
4) Where the guarantee presented for an advance payment to be executed under a contract made for construction sector work in accordance with Sub-Article (3) of this Article is from an insurance company, or where it is an advance payment granted to micro and small enterprises, the employer government institution must enter into a separate contract with the contractor or the micro and small enterprise regarding the utilization of the advance payment; the contract may contain clauses stating the following:

   a) The advance payment executed to the contractor or the micro and small enterprise in accordance with the contract shall be deposited into a separate bank account opened for this purpose in the name of the contractor or the micro and small enterprise;

   b) The advance payment money deposited in the account opened in accordance with sequential letter (a) of this sub-article may be withdrawn only through the joint signatures of the employer and the contractor;

   c) Payments shall be released to the contractor or the micro and small enterprise from the money deposited in the bank account only when it is verified that it has performed the appropriate work using the money previously withdrawn;

   d) Domestic contractors for road works may allocate up to 50% (fifty percent) and domestic contractors for building works may allocate up to 30% (thirty percent) of the money paid as an advance payment for the purchase of equipment;

5) The government institution may permit domestic contractors to allocate part of the money granted to them as an advance payment for the purchase of equipment when it understands that the conditions specified under sequential letter (d) of Sub-Article (4) of this Article exist and that:

a) The contractor provides confirmation that it shall not use the equipment purchased with the money taken as an advance payment as collateral for debt before the completion of the project in accordance with the contract, and shall not transfer it to a third party in any form;

b) The contractor presents the type of equipment it will purchase with the money taken as an advance payment to the supervisor engineer of the employer government institution before signing the advance payment disbursal agreement, and it is verified that the equipment is necessary for the work;

c) Confirmation is presented that the equipment shall not be moved from the project to another location without the permission of the project owner;

6) The procurement executing government institution must verify that the contractor has purchased the equipment with the disbursed advance payment by requiring it to present legal evidence in accordance with Sub-Article (5);
7) The machinery to be purchased for road works as well as building construction with money paid as an advance payment are only those specified in Annex 10;
8) If the domestic contractor fails to transport the equipment required for the construction work to the project site using the disbursed advance payment in accordance with Sub-Article (6) of this Article, the next payment due to be paid to it under the contract shall not be executed;
9) The advance payment money taken by the domestic contractor or micro and small associations must be recovered by deducting it progressively from the payment certificates prepared at each stage or from the accounts of supplies executed at each stage in accordance with the contract.

140. Price Adjustment

1) When the government institution realizes the existence of the following conditions, it must indicate in advance in the bidding document that a price adjustment shall be made for construction works lasting 12 months or longer, and for procurements executed under a framework agreement lasting 6 months or longer:

a) Price adjustment for construction work shall be made nine months after the contract enters into effect, whereas for procurements executed under a framework agreement, it shall be for the price change occurring six months after the contract enters into effect;

b) Price adjustment in accordance with this Article shall be made based only on price data obtained from the Central Statistical Service, or upon confirmation that price data from the

Ethiopian Statistical Service is unavailable, from a recognized manufacturer as appropriate, or failing that, based on market price data obtained through a centralized market price study conducted by the Bureau upon instructions issued following requests submitted by government institutions;

c) Regarding framework procurement, unless otherwise specified in the contract for products or supplies whose market prices are highly volatile, price adjustment shall be made only for market price changes occurring every six months;

d) Price adjustment in accordance with this Article shall be implemented only when it obtains the acceptance of the procurement approval committee of the government institution;

2) The government institution must clearly indicate in the bidding document it prepares for procurements that include goods or supplies subject to price adjustment the following conditions, along with other conditions it deems necessary:

a) The type of information candidates must submit with their bidding documents to implement the price adjustment;

b) The conditions under which the price adjustment request is to be submitted, the method of submission, and the type and volume of evidence to be presented in connection with the price adjustment request;

c) Other information believed to be useful for the performance of the price adjustment and the procedures it deems bidders should follow;

3) The government institution must verify during bid evaluation that bidders have accepted the preconditions set for the purpose of price adjustment and that the evidence they have presented is acceptable;
4) The following conditions and other conditions believed to be appropriate must be clearly included in the contract agreement made between the government institution and the winning bidder:

a) The list of goods or supplies produced using inputs subject to price adjustment and the implementation of the adjustment;

b) The type and source of the document agreed upon by the government institution and the supplier for the performance of the price adjustment;

c) That the evidence submitted for price adjustment must be in accordance with what is specified in the contract, and that information coming from any other source shall not be acceptable;

d) Whether an adjustment shall be made for a price escalation resulting from the supplier's failure to perform the work or supply on time in accordance with the contract agreement, provided that the procurement order issued to the supplier is based on an estimated distribution of the total requirement;

5) Any price adjustment increase made on goods and non-consultancy services shall not exceed 30% (thirty percent) of the original contract price; however, when the price adjustment request exceeds this amount, government institutions may submit the request to the Bureau, and the price adjustment may be made if it is found convincing;
6) Even if no price adjustment request is submitted by the supplier for any procurement where a price adjustment is permitted, the government institution must verify whether there is a price reduction on the inputs permitted by the contract agreement for price adjustment upon receiving a payment request, and if there is a price reduction, it must calculate and deduct it from the presented payment request before making the payment;
7) Prior to deducting from the payment in accordance with Sub-Article (6), the government institution must notify the supplier in writing of the adjusted price, and this shall be considered part of the contract document.

141. Price Adjustment for Construction Work Procurement

Without prejudice to the detailed conditions specified under Article 138 Sub-Article (1) of this directive, any price adjustment made in connection with the procurement of construction work shall be calculated following the procedures specified below and using the formula indicated in the standard bidding document:

1) Identifying the main inputs required for the construction work and the collection of items that may be included under each main input;
2) Determining those subject to price adjustment and those not subject to it by calculating the share of the main inputs containing collections of various items within the total inputs of the construction work;
3) The recent price index/index figure in force before the closing of the bid shall be taken as a baseline to calculate the price adjustment in accordance with the formula;
4) The price difference for the procurement of construction work shall be calculated in accordance with the formula by using the current price index/index figure in force;
5) The price adjustment made to the contractor in the process of implementing the price adjustment shall not exceed 25% (twenty-five percent) of the contract price of the total construction work; however, when the price adjustment request exceeds this amount,

government institutions may submit the request to the Bureau, and the price adjustment may be made if it is found convincing;

6) Price adjustment for construction works which the contractor failed to execute in accordance with the contract agreement and were executed late may be made based only on the price that was in force at the time when the construction works ought to have been executed.

142. <u>Price Adjustment for Procurement Executed Under a Framework Agreement</u>

1) For framework agreement procurements executed centrally, the request for price adjustment must be submitted to the government institution established to execute central framework procurements, and for framework procurements executed individually by government institutions, to those respective government institutions;
2) Government institutions may make price adjustments for procurements executed under a framework agreement in the following manner:

   a) A request for price adjustment for a procurement executed under a framework agreement must be submitted after six months from the date the agreement entered into force;

   b) During a framework agreement, a price adjustment shall be made only after the supplier, upon request, has supplied at least one-fourth of the contract quantity required to be supplied per year;

   c) The recent market price from the Ethiopian Statistical Service or a recognized manufacturer or studied by the government institution at the time of bid opening regarding the goods or service subject to price adjustment, and the time within the validity period of the framework agreement at which the price adjustment is to be made must be specified in the framework agreement;

   d) The government institution must calculate the price difference between the two prices, cause the difference to be added to or deducted from the supplier's price, and apply the adjusted price until the next price adjustment period arrives;

   e) Price adjustment for supplies which the supplier failed to deliver in accordance with the contract agreement and were delivered late may be made based only on the price that was in force at the time when the supplies ought to have been delivered;

   f) The price adjustment to be made for the first time shall be based on the formula prepared for this purpose, by adding to or deducting from the contract price, as appropriate, the difference between the market prices at the time of bid opening and at the time the price adjustment is requested;

g) Notwithstanding the provisions of sequential letter (f) of this sub-article, for a price adjustment to be made after the first price adjustment, the market price previously obtained through the adjustment shall be taken as the baseline price for the next price adjustment calculation;

h) When the number of framework procurement suppliers is more than one and the item model or trade name of the goods they supply varies, the price adjustment to be made for the suppliers must be based only on the price difference that the product entered into contract by the first-ranked supplier brought to the market;

i) Notwithstanding the provisions of sequential letter (g) of this sub-article, when the market price information of the winner's contract price or the existing difference is repeatedly unavailable and it becomes impossible to make a price adjustment, as appropriate, by adding to or deducting from the contract price, it is possible to make a price adjustment based on the price of suppliers who accepted the price of the winning firm and executed delivery under their own trademark;

j) A price adjustment made under a framework agreement shall be executed using data close to the time the supplier submitted the request, and the price adjusted on this basis must take into account the price change occurring between the time the supplier submitted the request and the time the government institution decided to make the price adjustment, by taking the most recent price;

k) When the adjusted contract price obtained based on the calculation of the price adjustment formula is below zero, delivery may be made based on the contract price at the time the adjustment is made; however, at this time, the government institution may terminate the contract if it believes it is not viable; likewise, if the increase resulting from the price adjustment is above 30% (thirty percent) of the original contract price, the contract shall be terminated.

143. Price Adjustment for the Procurement of Consultancy Services

1) The government institution must indicate in advance in the bidding document that a price adjustment shall be made starting from the 12th month for service procurements lasting 24 months or longer;
2) During the execution of a contract for the procurement of consultancy services, if the government institution believes it is necessary to make a price adjustment for the consultant due to the extension of the contract performance period for reasons not attributable to the fault of the consultant, it may make a price adjustment for them;
3) Notwithstanding the provisions of Sub-Article (2) of this Article, the price adjustment to be made for consultants cannot exceed twenty percent (20%) of the total contract price;

however, when the price adjustment request exceeds this amount, government institutions may submit the request to the Bureau, and the price adjustment may be made if it is found convincing;

4) Price adjustment in accordance with this Article shall be made based only on price data obtained from the Central Statistical Service, or upon confirmation that price data from the Ethiopian Statistical Service is unavailable, based on market price data obtained through a centralized market price study conducted by the Bureau upon instructions issued following requests submitted by government institutions.

144. Delivery and Inspection

1) The government institution must take delivery of the goods, service, or construction work delivered by the supplier by verifying that it has been inspected in the manner set forth in the contract and meets the required quality standard;
2) The government institution may, when it finds it necessary, establish a temporary inspection committee for this purpose depending on the type and level of complexity of the procurement to be executed;
3) Without prejudice to other responsibilities specified in the contract, the committee established in accordance with Sub-Article (2) of this Article shall have the following responsibilities and duties:

   a) To inspect and, as necessary, conduct tests;

   b) To conduct an inspection to ensure that the goods, service, or construction work to be delivered meets the quality standard specified in the contract;

   c) To decide whether delivery should be accepted or returned depending on the status of the inspection;

4) If it is verified by the committee that the goods, service, or construction work delivered in accordance with Sub-Article (3) of this Article does not meet the quality standard specified in the contract, the supplier must replace or rectify it within five working days in accordance with the contract.

145. Effecting Payment

1) The payment request submitted by the supplier to the procurement executing body must generally include the required information set forth in the conditions of contract and be accompanied by an appropriate written invoice;

2) The procurement executing body shall effect payment to the supplier in accordance with the contract price for the goods and related services, consultancy services, or construction works delivered by the supplier in accordance with the contract obligations under Sub-Article (1) of this Article;
3) Any government institution must effect the appropriate payment to the supplier within 30 days after taking delivery of the procured goods, consultancy services, and other services;
4) Unless otherwise specified in the Proclamation and the contract, the procurement executing body may effect payment only after verifying that the obligations specified in the contract have been fulfilled;
5) The provision of Sub-Article (4) of this Article shall apply only to supplies delivered by the supplier within the contract period and does not apply to procurements subject to price adjustments in accordance with this directive;
6) Without prejudice to the provisions of Sub-Article (1) of this Article, when a government institution executes the procurement of construction sector work, payment shall be effected based on the stage of execution of the construction and by following the implementation below:

a) Payment for construction sector work shall be effected in accordance with the stage of the work and based only on a payment certificate issued by a consultant hired for this purpose or a engineer of the government institution depending on the complexity of the work;

b) The consultant managing the supervision work or the engineer of the government institution must complete the inspection work within 7 (seven) working days from the date the request for the issuance of a payment certificate is submitted by the contractor;

c) When the payment certificate is verified and presented in accordance with sequential letter (b) of this sub-article, the government institution must effect the appropriate payment to the contractor within 30 (thirty) days;

d) If the consultant engineer fails without good cause to process the payment certificate within the time specified under sequential letter (c) of this sub-article after it is prepared and presented to him, the consultant engineer shall be responsible for any additional payment request submitted by the contractor against the government institution due to the delay;

e) From each payment effected in accordance with the payment certificate, 7% (seven percent) shall be deducted and held as retention money to serve as a quality guarantee for the construction work;

f) Upon completion of the construction work and execution of provisional acceptance, 50% (fifty percent) of the money held in accordance with sequential letter (e) of this sub-article shall be released to the contractor; the remaining 50% (fifty percent) shall be held for a maintenance period of one year from the time provisional acceptance is executed, provided that if the contractor presents an unconditional guarantee lasting for 12 months, the money held shall be released to it;

7) A payment of up to sixty percent (60%) of their value may be effected for construction materials present on the construction site; however, government institutions must take the following precautionary measures before effecting the specified sixty percent (60%) payment:

a) The authenticity of the invoice indicating the purchase price of the materials presented by any contractor requesting payment for materials present on the construction site must be verified by the government institution and the consultant;

b) When a construction material present on the construction site for which payment has been effected is put into use, the payment executed must be deducted from the next payment;

c) It is not permitted to use materials present on one construction site as inputs for another construction project or to allocate them for any other separate purpose;

d) Along with the request submitted by the contractor to be paid for materials present on the construction site, it must present evidence showing that the materials are insured by taking out insurance in accordance with the provisions of the general conditions of contract of the standard bidding document for construction work, so as to compensate for the extent of damage if the materials encounter an accident, are stolen, or deteriorate due to remaining unused for a long time while in storage.

146. <u>Contract Completion</u>

1) Government institutions must ensure that contracts signed with suppliers and related matters receive an appropriate final resolution in a timely manner and that the contract is completed. To this end, they must verify that:

a) The supplier has completed and delivered the construction sector work, goods, consultancy, or other services due under the contract agreement;

b) Guarantees and quality guarantees held in accordance with the contract have been appropriately monitored and a decision has been rendered at the required time;

c) Payments due to be paid to suppliers under the contract have been finalized, and that service has been obtained in accordance with the contract for all payments made;

d) Government institution interests related to third parties, namely insurance companies, carriers, the customs authority, customs clearers, banks, and other service providers, have been protected and obligations have been performed;

2) The government institution must close outstanding accounts with the supplier and third parties and, as necessary, conduct a contract performance evaluation.

147. Liquidated Damages

1) The government institution must take measures for delayed contract performance in accordance with this directive as follows:

a) It must deduct from the payment a liquidated damage of 1/1000 per day on the portion that the supplier failed to perform within the contract period;

b) The penalty calculated in this manner shall not exceed 10% of the contract price;

c) If the delay in the performance of the contract causes greater trouble to the operational activity, a clause must be included in the contract stating that the government institution may terminate the contract by giving a warning, without being obliged to wait until the penalty amount reaches 10%.

2) Sub-Article (1) of this Article shall apply only to contracts executed late by suppliers to government institutions, and the liquidated damage payment must be deducted only from the remaining payment due to the supplier;
3) If the supplier fails to perform the goods, service, or construction work in accordance with the contract, or fails to meet other obligations set forth in the contract, government institutions must cause the termination of the contract by forfeiting the performance security based on the provisions of this directive.

148. Termination of Contract

Without prejudice to the details being executed in accordance with the contract document, the government institution may terminate the contract by giving a warning to the supplier when the following conditions are met:

1) If the supplier fails to perform the goods and related service, or the consultancy service, or the construction work in accordance with the contract, or fails to meet other obligations set forth in the contract including substantial contract performance problems, or is found to have committed acts prohibited by law, or its bankruptcy or insolvency is confirmed;
2) When it becomes impossible or unnecessary for the government institution to perform the contract due to economic, budgetary, or technical and technological reasons;
3) When it is confirmed that the supplier is unable to perform the contract due to exceptional circumstances identified as force majeure under Article 147 of this directive.

149. Force Majeure

1) Reasons that may be considered a force majeure problem may be one of the following:

   a) A prohibition imposed by the government preventing the performance of the contract;

   b) Natural disasters such as earthquakes, lightning, storms, and similar events;

   c) Hostility, foreign or domestic war;

   d) The death of the contracting party, or a severe accident or serious illness that occurs to them unexpectedly;

   e) When other force majeure compelling situations listed in the Civil Code occur.

2) Unless there is an explicit contrary term in the contract, the conditions listed below shall not be considered force majeure problems:

   a) A labor strike or closure of the enterprise conducted within the factory of the contracting party or in one of its branch offices executing the work;

   b) An increase or decrease in the price of supplies necessary for the performance of the contract;

   c) The enactment of new laws that increase the cost of performance of the contractual obligations for the contracting party.

150. Notices and Written Communications

1) Any notice given by one contracting party to the other party in accordance with the contract must be in writing as specified in the contract; communication made in writing means when the delivery of the text to the recipient is confirmed;
2) A notice may have effect only when the notice is delivered in person to the legal representative of the contracting party or if it is sent to the address specified in the contract.

151. Resolution of Contract Disputes

1) Any dispute arising between the government institution and suppliers in connection with the performance of a government procurement contract must, as far as possible, be resolved through discussion and agreement of the two contracting parties;
2) Notwithstanding the provisions of Sub-Article (1) of this Article, any dispute arising between the government institution and suppliers must be resolved in accordance with the relevant laws, this directive, and the contract, pursuant to Article 60 Sub-Article (1) of the Proclamation;
3) Notwithstanding the provisions of Sub-Article (1) of this Article, when the government institution believes it is advantageous in terms of time and cost-effectiveness, they may use alternative dispute resolution methods pursuant to Article 60 Sub-Article (2) of the Proclamation;
4) If government institutions use alternative dispute resolution methods to resolve a dispute encountered during contract performance in accordance with Sub-Article (3) of this Article, it must be through arbitration bodies established in accordance with the relevant laws and recognized by the appropriate organ;
5) For the implementation of Sub-Article (4) of this Article, the arbitration body, the applicable law, the composition of the judicial body, the manner in which arbitrators are selected, and other procedural provisions should be included in the contract entered into by the procurement executing organs.

Chapter Nine
The System of Submission and Resolution of Complaints and Appeals
Section One
General Provisions

152. Submission of Complaints and Appeals

1) Any candidate who believes that an act or omission committed by a government institution in connection with a government procurement has violated this Proclamation, the Public-Private Partnership Proclamation and related provisions, the procurement implementation directives, and the conditions indicated in the bidding document, and who can demonstrate that they have suffered or may suffer damage as a result, may submit a complaint to the head of the government institution, or progressively an appeal to the Board.
2) The bidder may submit a complaint in accordance with Sub-Article (1) of this Article only before the government institution enters into a contract with the winning bidder.
3) Notwithstanding the provisions of Sub-Article (2) of this Article, a complaint submitted after the government institution has signed a contract may be reviewed when the following conditions are met:

a) If the contract was signed before the expiry of the period for submitting complaints and appeals specified under Sub-Article (1) of this Article;

b) If the contract was signed before the expiry of the seven (7) consecutive working days set forth in this directive to sign a contract after the government institution has given a response to the complaint submitted to it;

c) If the contract was signed without the results of the tender being disclosed to the bidders in accordance with the Proclamation and this implementation directive.

Section Two

Submitting a Complaint to the Head of the Government institution

153. Submitting a Complaint to the Head of the Government institution

1) In accordance with the provisions of Article 5 Sub-Article (14) and Article 68 of the Proclamation, any head of a government institution must investigate and respond to complaints submitted regarding the procurement executed by the government institution.
2) A complaint arising from an act or omission committed by the government institution must, in the first instance, be submitted to the head of the government institution.
3) Without prejudice to the provisions of Sub-Article (2) of this Article, a candidate may submit their appeal directly to the Board within five (5) working days counted from the date the procurement executing government institution provided clarification and amendment responses, or from the date it ought to have provided responses, based on requests for clarification and amendment submitted by candidates regarding the content of the bidding document.

4) Notwithstanding the provisions of Sub-Article (2) of this Article, a complaint arising from a procurement executed by government institutions which, due to the nature of their operations, are managed by a Management Board and have been specially permitted by the Bureau to have their procurements approved by the Management Board of the government institutions, may be submitted directly to the Appeal Hearing Board without the need to submit the complaint to the head of the government institution.

154. Period for Submitting a Complaint

1) Any candidate or bidder who claims to have suffered damage or injury in the procurement execution process must submit their complaint to the head of the government institution that issued the tender within five (5) consecutive working days counted from the date they officially knew or ought to have known of the final decision that forms the basis for the complaint. A complaint submitted to the head of the government institution after this period shall not be acceptable.
2) Unless the matter is resolved by agreement between the candidate or bidder who submitted the complaint and the government institution that issued the tender, the head of the government institution must, in accordance with the provisions of Article 68 Sub-Article (3) of the Proclamation, ensure that their decision and a copy of the decision reach the candidate or bidder who submitted the complaint within seven (7) consecutive working days counted from the date the complaint was submitted.
3) In a tender where bidders are required to submit their technical and financial bid documents separately:

a) The government institution must indicate, on the occasion it notifies the results of the technical evaluation to the bidders, that any bidder who has a complaint that the technical evaluation was not performed based on the Proclamation, or this directive, or the bidding document, may submit their complaint within five (5) working days;

b) The government institution may open the proposal containing the price competition only five (5) days after it has notified the results of the technical evaluation to the bidders. However, if a complaint has been submitted to the head of the government institution regarding the technical evaluation, it must keep the price proposal unopened until it responds to the complaint and up to 5 working days after it has given the response, or if an appeal has been submitted to the Board, until the Board renders a final decision;

c) Any procurement against which a complaint has been submitted shall be investigated based only on the bidding document prepared for the tender, the Proclamation, and this directive.

155. Ability of Government Institutions to Suspend the Procurement Execution Process

1) If the government institution that issued the tender verifies that the complaint was submitted within the time specified in this directive, it must cause the tender process to remain suspended until a decision is reached on the complaint.
2) Any decision given by the government institution regarding the complaint submitted to it, as well as the reasons and conditions of the decision, must be maintained as part of the procurement record.

156. Complaint Investigation Process and Decision Making

1) The decision rendered by the head of the government institution must contain the baseline cause of the grievance; the issues and analyses requiring a decision; the law and reasoning that enabled the reaching of the decision, as well as the evidence.
2) If the head of the government institution finds it necessary for making a decision, they may request the relevant person or body to present any type of evidence to them before submitting a proposal for a decision on the matter.
3) The head of the government institution must give a decision on the grievance within seven (7) consecutive working days from the date the grievance was submitted.
4) If the head of the government institution fails to give a decision on the submitted complaint within the time limit set forth in Sub-Article (3) of this Article, the complainant may submit an appeal to the Board within 5 working days from the date the 7-day time limit expired.

Section Three

Appeals Submitted to the Board

157. Establishment of the Appeal Hearing and Decision-Making Board

1) In accordance with Article 61 of the Proclamation and this directive, a Board shall be established to investigate and render decisions on appeal grievances submitted by candidates or bidders against the procurement execution of government institutions.
2) The Board members shall consist 7 members to be designated by the Mayor; and the members shall be drawn from the following institutions:

a) One member represented from the Bureau ----------chair person

b) One member represented from government institutions ------- member

c) One member from the Justice Bureau ---------- member
d) One member from professional associations ---------- member
e) One member represented from public enterprises ---------- member
f) One member represented from civil society organizations ------ member
g) One member represented from the Chamber of Commerce ------- member

3) One department head or expert represented from the Bureau shall be assigned as a non-voting member to serve as secretary and advisor.

4) The Bureau shall serve as the secretariat of the Board.
5) The designation of Board members shall be merit-based, and they must be persons who have acquired sufficient knowledge and experience in government procurement execution with educational backgrounds in procurement, engineering, health, agriculture, finance, or law, and who possess good character and ethics.
6) No lawsuit may be brought against any Board member for acts committed or omitted in the proper performance of their duties in accordance with this Chapter.
7) In accordance with Article 61(3) of the Proclamation, more than one subcommittee of the Board may be structured based on procurement types or based on the bodies executing the procurement subject to appeal.
8) The term of office of Board members shall be three years, and depending on their work performance and ethical standing, they may be assigned to serve for one additional term of office.

158. Dismissal from Board Membership

1) Any member of the Board, including the Chairperson, may resign at any time by submitting a resignation letter to the Bureau upon approval.
2) The Chairperson or any member of the Board may be dismissed from membership for one of the following reasons:
   a) Failure to discharge responsibilities due to mental illness or physical disability;

   b) Being accused of a crime and found guilty by a court;

   c) Discovery of ethical or disciplinary misconduct;

   d) Failure to properly discharge assigned responsibilities or repeated absence from Board meetings without good cause.

159. Powers and Duties of the Board

While performing its duties, except for rendering decisions related to selecting the winning bidder or signing a contract, and without prejudice to the powers granted under Article 63 of the Proclamation, the Board shall have the following powers:

1) To issue an order instructing the government institution to perform its duties in accordance with the provisions of the Proclamation and this directive;
2) To decide on the rectification of the procurement execution process under appeal, or to reject the appeal if it finds the submitted appeal groundless;
3) To decide on the total or partial termination of the procurement execution process under appeal;
4) To suspend the government institutions from carrying out further activities in connection with the disputed procurement process by giving a written notice until it investigates the matter and renders a decision on the appeal;
5) To conduct document reviews or hearings as necessary;
6) To order government institutions, candidates, bidders, and any other entity to present documents, records, reports, and any other evidence that enable it to investigate and render a decision on the appeal submitted to it;
7) Upon verifying that the appeal is submitted within the appropriate time and condition, to send a written notice to the government institution under appeal informing it that the procurement process has been appealed against, directing it to send documents and explanations related to the procurement execution, and instructing it to halt further activities until the Board renders a decision on the matter;
8) To render a decision after examining the response and explanation given by the government institution, the compiled evidence, and the points of contention of the appeal in light of the Proclamation and this directive.

160. Operational Procedure of the Board

The matters listed below shall be determined by the operational procedure directive to be issued by the Board:

1) The meeting procedure and meeting time of the Board;
2) The decision-making procedure of the Board;
3) The procedure for submitting and investigating appeals to the Board;
4) The procedure for investigating and hearing arguments on an appeal;
5) The manner in which evidence is to be presented.

161. Orders to be Issued by the Board

1) The Board may issue the following orders at any time during the hearing of an appeal:
   a) Upon request, to allow an additional litigating party to intervene;

   b) To stay the hearing of the case for a specific duration;

   c) To direct parties to point out the location of decisions, testimonies, etc., rendered or held by other legally authorized bodies deemed relevant to the case at hand;

   d) To order the litigating parties to present professional, technical, or scientific evidence necessary for the case at hand;

   e) To issue an order for the presentation of any human or documentary evidence it believes necessary for rendering a fair decision.

2) The Board may, when it finds it necessary, order any institution to present documents, human evidence, or witnesses, or to investigate and disclose the findings.

3) Any order of the Board must be communicated in writing to the litigating parties and relevant bodies, and the place and time must be specified in the text, and every person must respect and execute the order.
4) If any litigating party believes that an order issued is inappropriate, needs amendment, or should be stayed for a specific duration, it may submit a grievance to the Board; the grievance shall be submitted in writing and a copy thereof must reach the other litigating party at least 3 days prior.
5) The written grievance submitted under Sub-Article (4) of this Article must clearly include the reasons for which the order should be set aside, amended, or stayed.
6) The Board shall render a ruling on the written grievance submitted in accordance with Sub-Article (4) of this Article.
7) If any litigating party fails to execute an order issued by the Board, the Board may, as appropriate, decide to terminate the case, or to proceed with the argument in the absence of the litigating party in accordance with the issued order, or to rule that the specified evidence shall be unacceptable.

162. Conditions for the Board to Review its Decision

Before any person submits and voices their grievance against a decision or order issued by the Board to a court, they may request the Board to review the decision rendered by presenting their application based on the reasons set forth below:

1) Where the final judgment, decision, or order was rendered based on a falsely prepared document, false testimony, bribery, or a criminally related act, and the applicant is able to demonstrate that they could not have known it prior to the rendering of the judgment despite exercising the necessary diligence;
2) If they are able to demonstrate that the disclosure of the commission of the acts listed above would have been sufficient cause for the alteration or amendment of the judgment;
3) The appeal must be submitted in the proper manner along with valid evidence proving the commission of the reasons listed above;
4) The applicant must cause a copy of the submitted grievance to reach the other party, and the Board shall fix a appointment date for hearing the argument by issuing an order for statement of defense to be submitted;
5) The Board may render a decision stating that the adjudication ought to be reviewed or ought not to be reviewed. No appeal may be lodged against this decision.

163. Submitting an Appeal to a Regular Court

1) In accordance with Article 75 of the Proclamation and regarding decisions issued by the Bureau under Article 78 of the Proclamation, any litigating party dissatisfied with a decision may submit an appeal to a regular court only on points of law regarding the decision rendered by the Board;
2) A litigating party dissatisfied with the decision of the Board may submit an appeal to a regular court within 15 (fifteen) working days following the date on which the decision was rendered.

Chapter Ten

The System of Submission and Investigation of Offense Reports

164. Offense Reports Submitted to the Bureau

If a government institution believes that an illegal act or an act prejudicial to its legal interests has been committed by bidders or suppliers during a government procurement execution process, it must submit an offense report to the Bureau, without prejudice to the measures it takes in accordance with the bidding document or the contract agreement.

165. Submission of Offense Reports

The Bureau shall investigate and render decisions on offense reports submitted by government institutions against bidders or suppliers under the following conditions:

1) Any government institution may submit an offense report to the Bureau against an offending party if it can demonstrate that any bidder or supplier participating in a government procurement has signed a contract contrary to what is commanded by the law governing the procurement in which they participated, refused to sign a contract, committed fraud, presented a false document for competition, colluded, committed an act of corruption, and/or failed to perform their contractual obligations;
2) The Bureau must state the substance of the offense report submitted against any bidder or supplier and direct them to send their evidence and explanation to the Bureau within seven (7) consecutive working days, and must follow up on its execution;
3) The Bureau must investigate the explanations and evidence submitted to it from the government institution as well as from the bidder or supplier in light of the Proclamation, this procurement execution directive, the bidding document, as well as the procurement contract, and send its decision to the government institution that submitted the offense report and to the supplier or bidder against whom the offense report was submitted, as well as to other relevant bodies as necessary, within fifteen (15) working days from the submission of the offense report.

166. Decisions to be Rendered by the Bureau

1) If it is verified that any bidder or supplier has committed the acts listed below during the bidding process or during contract administration with the intent to deliberately distort or alter the evaluation results of the procurement, they shall be debarred from the suppliers' list to prevent them from participating in any government procurement issued by any government institution for a period of not less than two years, as appropriate; namely:
   a) An act of corruption, meaning when it is verified by evidence that they have given a bribe, an inducement, or anything of value to a professional or official engaged in the procurement profession;

   b) Fraud, meaning when it is verified that they have submitted a false or illegal document, or have been found participating in another government procurement tender while suspended by the Bureau before completing their suspension period, or have presented a substandard item, service, construction work, or consultancy service outside the contract by making it appear genuine or proper;

   c) When it is verified that they have colluded with other bidders to fix prices, thereby depriving the government institution of the benefits it could obtain from free competition;

   d) When it is verified that they have colluded with employees or officials of the government institution to supply an item, service, consultancy service, or construction work that is outside the contract;

e) When it is verified that they have directly or indirectly harmed, threatened to harm, or coerced a professional or official engaged in procurement work;

f) When it is discovered that they have committed another offense resulting in debarment within a period of two years counted from the time they completed a penalty previously imposed on them by the Bureau.

2) If it is verified that any bidder or supplier has committed the following acts, they shall be debarred from the suppliers' list to prevent them from participating in any government procurement for a period of not less than six months and not exceeding two years, depending on the severity of the offense; namely:
a) If they have caused financial loss, operational delay, or loss of benefit to the government institution due to their failure to complete the supply, service, consultancy service, or construction work in accordance with the contract they entered into, or because they abandoned the supply after starting it;

b) If they have caused loss or operational delay to the government institution because they refused to sign a contract after being notified in writing that they were the winning bidder in the tender competition, causing the government institution to execute the procurement from another bidder;

c) If they had previously (within the last three years) committed another offense and were given a warning by the Bureau, and are now found to have committed another procurement execution offense that warrants a warning.

3) A warning may be issued to any bidder or supplier when it is verified that they have committed the following offenses:
a) Causing operational difficulties to the government institution because they entered into a contract and delivered the supply, consultancy service, or construction work late, rather than within the time set forth in the contract;

b) Without prejudice to its commission by suppliers already registered on the suppliers' list, if it is verified that they refused to provide a proforma invoice when requested to do so by any government institution executing a procurement;

c) If the bidder or supplier against whom the offense report was submitted is a micro and small enterprise engaged in manufacturing, an association of persons with disabilities, an association of businesswomen, or provides technological innovation products, and it is the first time they have committed the offense;

d) If the bidder or supplier has submitted confirmation from a third party showing that they encountered a situation beyond the company's control related to product variation or foreign exchange shortage.

4) A copy of the decision rendered by the Bureau in accordance with the penalties listed in this directive shall be sent to all government institutions of the City Administration, to the Federal Procurement and Property Authority, and to relevant entities, and it shall be posted on the government electronic procurement system portal and website of the Bureau;
5) Without prejudice to the decision rendered by the Bureau in the conditions specified above, government institutions may claim the losses they sustained due to the problem created by the bidder or supplier in accordance with their procurement contract and other relevant laws;
6) If the offense report submitted by government institutions lacks complete evidence, or if they fail to submit additional information and evidence within five days from receipt of a letter requested by the Bureau to enable the rendering of a decision after submitting the report, the Bureau shall close the case.

167. Conditions for the Bureau to Review its Decision

1) Notwithstanding the provisions of Article 152 of this directive, where the litigating parties resolve their matter through agreement, or where the enterprise against which an offense report was submitted admits its offense and fulfills its obligations or rectifies its offense, the decisions of the Bureau may be one of the following:
   a) Closing the case upon examining the appropriate information;
   b) Lifting the debarment upon investigating the submitted information;
   c) Mitigating the penalty upon investigating the submitted information and reviewing the decision;
   d) A decision affirming the penalty where there is no cause to alter the initial decision.

2) Where the Bureau, in the process of investigating and rendering a decision on an offense report submitted to it pursuant to Article 78 of the Proclamation, verifies that an act entailing criminal liability has been committed, it shall notify the body legally authorized to investigate the matter and take measures.

168. Provision of Information

Where the Bureau, in the process of investigating and rendering a decision on an offense report submitted to it pursuant to the Proclamation, understands that an act entailing criminal liability has been committed, it must provide information to the appropriate government organ.

Chapter Eleven

Miscellaneous Provisions

169. Repealed and Inapplicable Directives

1) The Addis Ababa City Administration Procurement Implementation Directive No. 3/2010 (including its amendments), is hereby repealed by this Directive.
2) Any directive or customary practice which is inconsistent with this Directive shall not apply to matters covered by this Directive.

170. Transitory Provision

Procurement processes, contracts, and procurement grievances initiated before the coming into force of this directive shall be finalized in accordance with the previous directive.

171. Effective Date of the Directive

This directive shall enter into force and be applicable starting from the date it is registered by the Ministry of Justice and uploaded on the website of the Bureau.

Done at Addis Ababa; October, 2026

Abdulqadir Redwan
Head of the Finance Bureau with the Rank of Deputy Mayor