



Environmental **Investment** Fund
of **Namibia** | ensuring sustainability

PROCUREMENT POLICY AND PROCEDURES

NOVEMBER 23, 2018
ENVIRONMENTAL INVESTMENT FUND OF NAMIBIA
WINDHOEK, NAMIBIA


Version Control

DOCUMENT REVISION HISTORY

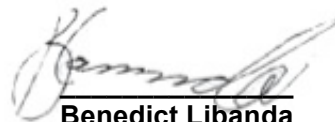
POLICY TYPE: OPERATIONAL POLICY
POLICY TITLE: PROCUREMENT POLICY AND PROCEDURES

REVISION HISTORY					
Rev	Description of Change	Approved By	Responsibility	Author	Effective Date
0	Initial release	Board of Directors	Director of Finance	I Hijamutiti	2016-07-31
1	Revision 1	Board of Directors	Director of Finance	I Hijamutiti	2018-11-23

Approved and signed on behalf of the EIF Board by:



Teofilus Nghitila
Chairman: Board of Directors



Benedict Libanda
Chief Executive Officer

23/11/2018
Date

23/11/2018
Date

Contents

SECTION A	5
Introductory Provisions	5
Definitions	5
Philosophy	7
Objectives of the Procurement Policy and procedures manual.....	7
Principles guiding the procurement policy	8
Application of the Procurement Policy and procedures manual	8
Scope	8
Management, Accountability and Responsibility of the Policy.....	9
SECTION B	10
Procurement Committee	10
SECTION C	17
Procurement thresholds and methods	17
Procurement thresholds	17
Procurement methods	18
SECTION D	24
Bidding process	24
Application of this Part.....	24
Invitation for bidding	24
Pre-qualification proceedings	24
Bidding documents.....	24
Two-stage bidding	25
Bid security or bid securing declaration	26
Submission of bids	26
Deadline for submission of bids	26
Withdrawal and modification of bids	26
Bid validity period.....	27
Prohibition of disqualified bidders and suppliers from participation	27
Opening of bids	27
Examination and evaluation of bids	28
Post-qualification	29
Cancellation of bidding process	29
Award of procurement contracts.....	30
Variations and lowest bid exceeding the prescribed threshold.....	31
Debriefing of unsuccessful bidders.....	31
SECTION E	32
Challenge and review procedures	32
Appeals Committee.....	32
Application for review.....	32
Decisions of Appeal Committee	33
Confidentiality in Review proceedings	33
SECTION F	34
PROCUREMENT CONTRACTS AND PROCUREMENT INTEGRITY	34
Contents of procurement contracts	34
Procurement integrity.....	34
SECTION G	37
PREFERENCES	37
Application of this Part.....	37

Codes of good practice	37
National preferences	38
Exclusive preference to local suppliers	38
Exclusive preference to suppliers whose goods and services have a green footprint.....	39
SECTION H	40
GENERAL PROVISIONS	40
Oath of office	40
Disclosure of interest.....	40
Undue influence.....	40
Indemnity.....	40
ANNEXURE 1	41
Terms of Reference for Bid Evaluation Committee	41
ANNEXURE 2.....	43
Terms of Reference for Procurement Committee	43

SECTION A

Introductory Provisions

Definitions

In this Policy and procedures manual, unless the context otherwise indicates -

“**Appeals Committee**” means the Appeals Committee of the EIF as constituted in terms of Section E of this Policy and the Operational Manual of the EIF;

“**Bid**” means an offer or proposal submitted in response to a request to supply goods, works or services, or any combination thereof, and, where applicable, includes any pre-qualification process;

“**Bidder**” means a participant in procurement or prequalification process, and includes a contractor;

“**Bidding document**” means (a) any document issued by a EIF or the Central Procurement Board on the basis of which bidders prepare bids; and (b) includes any document which contains instructions to bidders, specification, maps, designs, terms of reference, work schedules, evaluation criteria, bills of quantities, conditions of contract or other similar items;

“**Bid security**” means the security instrument required to ensure that a bid remains valid during the period stated in the bidding document;

“**Board**” means the Board of Directors of EIF;

“**Central Procurement Board of Namibia**” means the Central Procurement Board of Namibia established by section 8 of the Public Procurement Act of 2015;

“**Consultancy services**” means services of an intellectual or advisory nature, not incidental to the provision of goods or services or the execution of works;

“**CEO**” means the Chief Executive Officer of the Environmental Investment Fund of Namibia;

“**Contractor**” means a person who has entered into a procurement contract with EIF;

“**EIF**” means the Environmental Investment Fund of Namibia;

“**Goods**” means objects of every kind and description, including commodities, raw materials, manufactured products and equipment, industrial plant, objects in solid, liquid or gaseous form, electricity, as well as services incidental to the supply of the goods such as freight and insurance;

“**Non-consultancy services**” means any services other than consultancy services and services incidental to the supply of goods or the execution of works;

“Procurement” means the acquisition of goods, works, consultancy services or non-consultancy services, by any means, including purchase, rental, lease or hire purchase;

“Procurement committee” means the Procurement Committee of the EIF constituted in terms of Section B of this Procurement Policy;

“Procurement contract” means a contract between the EIF and a supplier resulting from a procurement process;

“Bid Evaluation Committee”, means the Bid Evaluation Committee of the EIF constituted in terms of Section B of this Procurement Policy;

“Responsive”, in relation to a bid, means responsive to the basic requirements of a bid regarding ability to perform and complete on time;

“Services” means any object of procurement, a contract or framework agreement for consultancy and non-consultancy services;

“Supplier” means a person or entity delivering goods, works, consultancy services or other services;

“Threshold” means a threshold amount prescribed for the procurement of goods, works and consultancy services or non-consultancy services including disposal of assets for the mandatory application of prescribed procedures; and

“Works” means any work associated with the construction, reconstruction, demolition, repair or renovation, site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, satellite photography, seismic investigations and similar services.

Philosophy

- (1) Bidding for the procurement of goods and services for the Fund shall be conducted in a professional manner and based on sound business principles.
- (2) Business transactions shall be conducted within the framework of existing laws, regulations, corporate guidelines, policies and procedures.

Objectives of the Procurement Policy and procedures manual

- (3) The objectives of the policy and procedures manual are –
 - a) to promote integrity, accountability, transparency, competitive supply, effectiveness, efficiency, fair-dealing, responsiveness, informed decision-making, consistency, legality and integration in the procurement of assets, works and services, to –
 - i. maximise economic efficiency in procurement to obtain best value for expenditures;
 - ii. ensure compliance with the Public Procurement Act of 2015; and
 - iii. provide procurement guidelines to EIF procurement process.
 - b) to promote, facilitate and strengthen measures to implement the empowerment and industrialisation policies of the Government including, to enable amongst others -
 - i. the job creation for Namibian citizens;
 - ii. the empowerment of Namibian registered small and medium enterprises, women and youth by creating economic opportunities for them and enhancing their participation in the mainstream economy;
 - iii. sourcing of goods manufactured, mined, extracted or grown in Namibia and local services and labour, including local entrepreneurial development; and
 - (aa) preferential treatment in the allocation of procurement contracts to Namibian registered small and medium enterprises;
 - (bb) Namibian registered joint venture business;
 - (cc) categories of Namibian manufacturers, suppliers, contractors and service providers;
 - (dd) Namibian registered entities that promote the protection of the environment, maintain ecosystems and sustainable use of natural resources;
 - (ee) Namibian natural persons or categories of persons, including persons who have been, economically or educationally; disadvantaged by past racial discriminatory laws or practices, as the CEO may prescribe for a specified or unspecified period and either unconditionally or subject to such conditions as the CEO may determine, having regard to the policies of the Government.

Principles guiding the procurement policy

- (4) The fundamental principles governing the Fund's Procurement Policy and procedures are:
- a) Transparency;
 - b) Integrity;
 - c) Competitive supply;
 - d) Effectiveness, efficiency;
 - e) Fair-dealing;
 - f) Responsiveness;
 - g) Informed decision-making;
 - h) Consistency;
 - i) Legality;
 - j) Integration; and
 - k) Accountability
- (5) Additionally, the EIF should conform to sustainable procurement practices that meet its needs for goods, services, capital expenditure works and utilities in a way that achieves value for money on a whole-life basis in terms of generating benefits not only to the Fund, but also to society and the economy, while remaining within the carrying capacity of the environment.
- (6) As such the Fund complies with its national and international policies such the Public Procurement Act 2015, EIF's Environmental and Social Safeguards (ESS) Policy of 2015, the Financial Intelligence Act 3 of 2007 (FIA) and other relevant policies and procedures.

Application of the Procurement Policy and procedures manual

- (7) Despite any other law to the contrary, and except where provided otherwise in this section, this Policy applies to -
- a) all procurement of goods, works and services and disposal of assets undertaken by EIF; and
 - b) contract management of goods, works and services procured or disposed of by EIF.
- (8) The extent to which this Policy or directives made under it conflict with any other law, regulations, rules or directives on matters relating to procurement of goods, works or services, or disposal of assets, the provisions of the national laws or directives prevail.

Scope

- (9) This document applies to all employees of the Fund and all procurement conducted under the mandate of the Fund including projects and programmes the Fund administers financially or technically.

Management, Accountability and Responsibility of the Policy

- (10) The Policy and its procedures will be the responsibility of the Finance and Administration Department and will be administered by it.
- (11) The Finance and Administration Department is responsible for the implementation and maintenance of this Policy and its procedures.
- (12) The Policy shall be reviewed, and revised where necessary, on an annual basis effective from the date of approval.

SECTION B

Procurement Committee

- (1) A Procurement Committee will be established. The Committee will be responsible for overseeing procurement at the Fund as per the EIF threshold in Section C.
- (2) The Terms of Reference for the Procurement Committee is attached in Annexure 2.

Bid Evaluation Committee

- (3) The CEO shall appoint the Bid Evaluation Committee. The Committee will be responsible for pre-evaluating bids/procurement submissions and recommend to the Procurement Committee.
- (4) The Terms of Reference for the Bid Evaluation Committee is attached in Annexure 1.

Procurement Management Unit

- (5) A Procurement Management Unity should be established at EIF.
- (6) The Procurement Offier shall serve in this unity and act s the Ex-officio to the above two committee.

Powers and functions of CEO

(7). (1) The CEO -

(a) must, in the prescribed manner, set up an internal organisational structure which includes a procurement committee and procurement management unit for the conduct and management of procurement at the EIF; and

(b) is accountable for the full compliance with this Policy and the National Procurement Act.

(2) The powers and functions of the internal structures of a public entity are exercised and performed in accordance with the prescribed procedure and processes.

(3)The CEO must -

(a) engage in procurement planning, plan each step of the procurement process and prepare annual procurement plan;

(b) certify the availability of funds before the commencement of each procurement process; and

- (c) ensure that the proceedings of the internal structures are properly recorded and kept in a safe and secure place in the prescribed manner.

(4) The CEO must keep and maintain proper record of minutes and other related documentation for a period prescribed by the Archives Act, 1992 (Act No. 12 of 1992).

Bid evaluation committees

(8). (1) For the purposes of evaluation of pre-qualifications or bids for procurements or disposal of assets, the CEO -

- (a) must establish an *ad hoc* bid evaluation committee for the evaluation of bids required to be undertaken in accordance with the National Procurement Act;
- (b) must appoint persons as members of the bid evaluation committee, and appoint one of them as chairperson; and
- (c) may co-opt persons from other public entities to assist the bid evaluation committee.

(2) A bid evaluation committee may include –

- (a) one or more members of the user department as appropriate;
- (b) the person involved in the preparation of the bidding document if considered beneficial depending on the type and complexity of the procurement.

(3) A bid evaluation committee established under subsection (1) is responsible for -

- (a) the evaluation of pre-qualifications, bids, proposals or quotations; and
- (b) the preparation of evaluation reports for submission to the procurement committee as provided under this Policy.

(4) The secretary of a bid evaluation committee is an in-house staff member (Procurement Officer) whose role is -

- (a) to liaise with members of bid evaluation committee when organising meetings as directed by the chairperson of the committee;
- (b) to keep and maintain attendance lists and minutes of all deliberations in arriving at the results of the evaluation;
- (c) to ensuring that bids are kept in a secured place; and
- (d) to organise the necessary logistics such as meeting place and other office materials as required.

(5) The members of a bid evaluation committee must possess skills, knowledge and experience relevant to the procurement requirements which may include -

- (a) technical skills;
- (b) procurement and contracting skills;
- (c) knowledge in financial management and analytical skills; or
- (d) legal knowledge and expertise.

(6) The number and level of expertise of members of a bid evaluation committee depend on the value and complexity of the procurement requirement concerned, but in all cases the number of members is odd numbers with a view to enable majority decisions.

(7) For the sake of an independent evaluation process and avoidance of conflict of interest,

(8) Where -

- (a) The staff compliment is small;
- (b) a level of expertise in the subject matter of the procurement at EIF is limited; or
- (c) the subject matter is so complex that in-house resources irrespective of their other involvement in the procurement proceedings have to be party to the evaluation process,

the EIF may appoint persons, or co-opt staff members from other public entity, to serve as members of the bid evaluation committee.

Internal organisational structure

9. (1) In addition to a procurement committee and procurement management unit referred to in section 7. (1) of the policy, an internal organisational structure of EIF must also include a bid evaluation committee.

(2) Section 10(1) and (2) of the Act applies with necessary changes to a person appointed or designated as part of the internal organisational structure.

(3) A member of an internal structure appointed or designated under these regulations must enter into a performance agreement with the CEO within 30 days of being designated or appointed.

Procedures and processes for procurement committee

10. (1) A procurement committee oversees the procurement process conducted by a public entity.

(2) A procurement committee, in accordance with the provisions of the Policy, must -

- (a) recommend to the CEO the bidding process of the EIF;
- (b) review the evaluation of pre-qualification or bid for procurement made and submitted to it by the bid evaluation committee;
- (c) attend to clarification of the issues pertaining to bidding during bidding stage and evaluation stage;
- (d) ensure that the implementation of the procurement contract is made in accordance with the provisions of the Policy and procurement contract;
- (e) review and recommend to the accounting officer submission made for variations, addenda or amendments in accordance with the provisions of the Act;
- (f) recommend to the CEO the approval for the award of the procurement contract; and
- (g) annually submit to the CEO a list of procurement contracts awarded by the EIF.

(3) An accounting officer may accept the recommendation for the award of the procurement contract made under subregulation (2)(f) or request the bid evaluation committee to re-evaluate the bids submitted to the EIF and to re-submit to the procurement committee for reconsideration and recommendation.

Procedures and processes for bid evaluation committee

11. (1) The bid evaluation committee must, with the approval of the CEO and on the request by the procurement committee -

- (a) provide clarification on the contents of the evaluation reports referred to in section 26(4) of the Procurement Act; and
- (b) may review the evaluation report referred to in paragraph (a) on a specific ground backed by the contents of the bidding documents and in accordance with the Policy and Procurement Act.

(2) The bid evaluation committee must commence with the process of examination and evaluation of bids within five days after the opening of bids.

(3) The process of examination and evaluation of bids referred to in subregulation (2) must be completed within 14 days after the opening of the bids or such other period as a public entity may extend, but not exceeding 30 days.

Procedures and processes for procurement management unit

12. (1) The procurement management unit is responsible for conducting and management of procurement activities of the EIF from the initiation of the procurement to the award of the procurement contract, but the procurement management unit is not responsible for the evaluation of bids or awarding or termination of procurement contracts.

- (2) The procurement management unit must -
- (a) support the functioning of the procurement committee and provide secretarial services and technical input to the procurement committee;
 - (b) serve as the channel of communication for the EIF procurement;
 - (c) handle complaints by suppliers, contractors or consultants and submit to the CEO a report on how such complaints have been or are to be resolved;
 - (d) prepare an annual procurement plan that a public entity intend to carry out during the financial year which includes -
 - (i) types and quantity of the goods, works or services to be procured by the EIF;
 - (ii) a schedule of the planned delivery, implementation or completion dates for goods, works or services required by the EIF;
 - (iii) an indication of whether goods, works or services is procured within a year or under a multi-year arrangement;
 - (iv) an indication of possible packages of procurement and the value or an estimate of the value of each package of goods, works or services required to be produced;
 - (v) an indication of possible pre-qualification proceedings;
 - (vi) an indication of which items can be aggregated for procurement as a single package or for procurement through an applicable arrangement for common- user items;
 - (vii) an indication of the budget available and source of funding for the procurement of the goods, works or services;
 - (viii) an indication of the appropriate procurement method for each procurement requirement; and
 - (ix) such other information as may be required by the CEO or the Policy Unit;
 - (e) initiate a procurement activity on receipt of a purchase requisition approved by the CEO; and
 - (f) implement procurement policy decisions of the EIF and decisions made by the Review Panel.

(3) In addition to an annual procurement plan referred to in subregulation (2), the procurement management unit must prepare an individual procurement plan for each individual procurement and the individual procurement plan must take into account -

- (a) the identification and assessment of the need for procurement;

- (b) the estimate of the time required for each stage in the procurement process;
 - (c) the identification of the amount and source of funding;
 - (d) the acquisition history for similar goods, works or services;
 - (e) the estimation for the cost of the proposed procurement;
 - (f) possible aggregation of procurement requirement taking into account factors such as achieving economies of scale in purchasing, optimised use of procurement and contract administration resources; and
 - (g) the selection of appropriate procurement method in accordance with section C of this Policy and the reason for the selection of the procurement method.
- (4) The procurement management unit must maintain and keep records of procurement in accordance with the provisions of the Policy.
- (5) The procurement management unit must -
- (a) monitor every stage of the procurement process and ensure delivery of procurement contracts in accordance with the Policy;
 - (b) initiate necessary action against defaulting suppliers and contracts; and
 - (c) provide timely procurement reports to the CEO and the Policy Unit, which report must include -
 - (i) the date of signature of the procurement contract;
 - (ii) goods, works or services procured;
 - (iii) estimated value of procurement;
 - (iv) name of supplier or contractor; and
 - (v) total sum of procurement contract awarded during a specified period.

Composition of the Procurement Management Unit

1) The CEO must constitute a procurement management unit

(2) A procurement management unit consists of a head and supporting staff or in small public entity, a person responsible for procurement.

(3) The persons referred to in subregulation (2) must have -

- (a) technical and professional competence;
- (b) procurement knowledge and skills; and
- (c) integrity and sound decision-making abilities.

(4) The size of the procurement management unit and the level of seniority of the staff must be proportionate to the value and volume of procurement at EIF.

SECTION C

Procurement thresholds and methods

Procurement thresholds

- (1) Procurement of goods and services for EIF and grants related goods and services shall be done within the following thresholds.

TYPE OF PROCUREMENT METHOD	SUPPLY OF GOODS, SERVICES AND WORKS	APPROVALS BY:
Direct procurement (1 quotation)	Less than or equal to N\$5,000	Authorized signatories (as per Delegation of Authority framework).
Request for 3 quotations	More than N\$ 5,000 and less than or equal to N\$ 100,000	Authorized signatories (as per Delegation of Authority framework).
Competitive procurement (3 quotations)	More than N\$100,000 and less than or equal to N\$1,000,000	Procurement Committee as provided for in Section B of this Policy. The Procurement Committee may also decide on other procurement methods as provided for below in subsection 2 (a) of this Policy.
Tendering by EIF	Above N\$1,000,000 but not exceeding the following national caps Goods (15 millions) Works (20 millions) Consultancy (10 millions) Non-Consultancy (5 millions)	Procurement Committee to decide on the procurement method as provided for below in subsection 2 (a) of this Policy and Bid evaluation Committee for evaluation of bids
Tendering by Central Procurement Board	Goods (15 millions) Works (20 millions) Consultancy (10 millions) Non-Consultancy (5 millions)	Central Procurement Board

Procurement methods

- (2) Subject to subsection (2) of the Public Procurement Act, the choice of procurement methods available to the Procurement Committee of the EIF is –
- a) for the procurement of goods, works and non-consultancy services, by –
 - i. open advertised bidding;
 - ii. restricted bidding;
 - iii. request for sealed quotations;
 - iv. Request for three quotations
 - v. direct procurement;
 - vi. execution by partner agencies;
 - vii. emergency procurement;
 - viii. small value procurement; and
 - ix. request for proposals.
 - b) for the procurement of consultancy services, by request for proposals on the basis of –
 - i. quality and cost;
 - ii. quality alone;
 - iii. quality and fixed budget; or
 - iv. least cost and acceptable quality.
- (3) Procurement of goods or services may be made by means of open advertised bidding, to which equal access is provided to all eligible and qualified bidders.
- (4) Open advertised bidding proceedings may –
- a) Include a pre-qualification stage, or post qualification procedures, before the selection of the winning bidder; and
 - b) Be carried out in a single stage or in two stages
- (5) A method of procurement referred to in subsection (2)(a)(ii) to (viii) above may be used if EIF has reason to believe that open advertised bidding –
- a) does not support empowerment and other policies of the Government contemplated in Section A, subsection (1) (b) of this Policy;
 - b) is not efficient or practical for the procurement in question; or
 - c) is too costly to apply, given the value of the procurement.
- (6) Where the Procurement Committee uses –
- a) a method of procurement other than open advertised bidding; or
 - b) in the case of the procurement of consultancy services, a method other than one specified in subsection (2)(b).

The Committee must note in the record of the procurement proceedings the reason for the choice of the procurement method.

Open advertised bidding

- (7) Where the open advertised bidding method is used, the invitation to bid, or the invitation to pre-qualify, is published -
 - a) in at least two newspapers with wide circulation;
 - b) in the public procurement portal accompanied by a prescribed disclaimer.
- (8) Subject to this Policy, the EIF may confer an advantage or preference to Namibian goods, services, suppliers or persons in the empowerment categories in the case of open advertised bidding process, as provided for in Section G of this Procurement Policy.
- (9) The EIF may also limit participation in open advertised bidding proceedings -
 - a) to the citizens of Namibia; or
 - b) entities incorporated in Namibia with no less than 51 percent equity that is owned by Namibian citizens of which no less than 30 percent is owned by previously disadvantaged persons, where such limitation is stated in the invitation for pre-qualification or bidding and is in accordance with the prescribed criteria.

Restricted bidding

- (10) Restricted bidding may be used -
 - a) if EIF has reason to believe that the goods or services are only available from a limited number of bidders;
 - b) if the time and cost of considering a large number of bids is disproportionate to the value of the procurement and the estimated value of the procurement does not exceed the prescribed threshold; or
 - c) by limiting the participation in a particular procurement to those suppliers included on pre-approved supplier eligibility lists drawn up and maintained by the EIF in the prescribed manner so as to ensure that suppliers of specialised goods and services have and maintain the necessary technical and financial capability to provide those goods or services.
- (11) Where restricted bidding is used on the ground referred to in subsection (2)(a) above, the Procurement Committee must directly solicit bids from all known suppliers capable of supplying the goods or services.
- (12) Where restricted bidding is used on the ground referred to in subsection (2)(b) above, the Procurement Committee must, as far as reasonably possible, directly solicit bids from a minimum of five suppliers.

Request for sealed quotations

- (13) The request for sealed quotations method may be used for the procurement of -
 - a) readily available commercially standard goods not specially manufactured to the

- particular specifications of the EIF;
- b) small services;
- c) small works; or
- d) if the estimated value of the procurement does not exceed N\$ 1,000,000.

- (14) The Procurement Committee must in writing request sealed quotations from three bidders, unless the item in question is not available from three suppliers.
- (15) The request contains a clear statement of the requirements of the EIF as to quality; quantity, terms and time of delivery and other special requirements, together with such other information as may be prescribed.
- (16) A bidder must submit one sealed quotation, which may not be altered or negotiated.

Request for three quotations

- (17) The request for three quotations method may be used for the procurement of -
 - a) readily available commercially standard goods not specially manufactured to the particular specifications of the EIF;
 - b) small services; or
 - c) small works,
 - d) if the estimated value of the procurement does not exceed the prescribed threshold.
- (18) The Procurement Officer must obtain quotations from three suppliers on the supplier master file, unless the item in question is not available from the selected three suppliers.
- (19) The request contains a clear statement of the requirements of the EIF as to quality; quantity, terms and time of delivery and other special requirements, together with such other information as may be prescribed.
- (20) A supplier must submit one quotation, which may not be altered or negotiated.
- (21) The Procurement Committee must review the three quotations and complete a comparative quotation chart (CQC) and document justification for recommending a particular supplier.

Emergency procurement

- (22) The EIF may procure goods, works or services using the direct procurement method in cases of emergency and in accordance with the threshold values.
- (23) The scope of the emergency procurement is, as far as possible, limited to the period of the emergency, so that appropriate competitive procurement methods may be utilised after the conclusion of the emergency period.
- (24) For the purposes of this section, “emergency”, includes a situation where -

- a) life or the quality of life or environment may be seriously compromised; or
- b) the condition or quality of goods, equipment, building or EIF-owned capital goods may seriously deteriorate, unless action is urgently and necessarily taken to maintain them in their actual value or usefulness.

Execution by partner agencies

(25) Execution by partner agencies may also be used in the case where one or more of the following conditions are present -

- a) an activity is not likely to attract bidders, at least not at a reasonable price, in view of its size, nature, location or scattered location or financing or high mobilization costs for outside suppliers;
- b) an activity is such that, if carried out by a supplier, it would impose an unacceptable risk on the supplier because the cost cannot be determined in advance;
- c) the risk of unavoidable work interruptions is better borne by the partner agency than by a supplier;
- d) it has been demonstrated that execution by the partner agency is the only
 - i. practical method for the supply of services under special circumstances;
 - ii. an activity for a pilot project of a particular nature for the development of a technology work method cannot be carried out by a supplier;
- e) staff members of the partner agency carry out the service without disrupting existing operations of the EIF because they are familiar with those operations;
- f) a partner agency has the capacity to do such work on behalf of the EIF;
- g) there is an emergency such as a natural disaster which calls for immediate action.

Request for proposals

(26) Where the request for proposals method is used for the procurement of goods and services, the relevant committees -

- a) must draw up a shortlist of suppliers from among those who have the capacity to deliver the required goods and services that ensure effective competition.
- b) Where the estimated value of the procurement is more than N\$ 1,000,000; the Procurement Committee, in order to draw up a shortlist of suppliers, must seek expressions of interest by publishing a notice in a newspaper of wide circulation, and include in the list those who have expressed interest in the procurement.
- c) Where the estimated value of the contract is more than N\$ 100,000 and less than or equal to N\$ 1,000,000 the Procurement Committee -

- i. may draw up a shortlist on the basis of its own knowledge and information; and
 - ii. must issue a request to the short-listed suppliers, asking them to express their interest by submitting a proposal, which includes such information as may be prescribed that, enables them to participate in the procurement proceedings and that is responsive to the needs of the EIF.
- d) The selection of the successful proposal is based on -
 - i. the technical quality of the proposal as well as the price of the proposal;
 - ii. the quality of the technical proposal submitted within a predetermined fixed budget; or
 - iii. the best financial proposal submitted by the applicants having obtained an acceptable technical score pre-disclosed in the request for proposals;
- e) EIF must evaluate each technical proposal on the basis of criteria which includes -
 - i. the relevant experience of the supplier for the assignment;
 - ii. the quality of the methodology proposed;
 - iii. the qualifications of the key staff members proposed;
 - iv. the transfer of knowledge, if required in the request for proposals.
- f) After the evaluation process EIF will publish the names of bidders who have secured the contract.
- g) The contract may be negotiated with the winning supplier with regard to the terms of the request for proposals, the scope of the proposed services, deliverables, progress reports, facilities to be provided by EIF, or the financial proposal.
- h) Where the price has been a factor, the fee for services is not subject to negotiation and only the cost of reimbursable items may be negotiated in such manner as may be prescribed.
- i) Where the negotiation fails to result in an acceptable contract, the EIF must notify the bidder accordingly and proceed to the next ranked bidder, and so on.
- j) EIF must select for award a supplier whose bid -
 - i. attains the highest score in accordance with the criteria and selection method set forth in the request for proposals; or
 - ii. has the least cost in the case of the least cost method of selection, subject to satisfactory conclusion of negotiations.
- k) EIF must notify the successful supplier of its selection for award and must simultaneously notify all other short-listed suppliers of the decision.
- l) In the absence of an application for review by any other supplier within 7 days of a

notice under subsection (13), EIF must award the contract to the successful supplier.

Direct procurement

- (27) A direct procurement method allows EIF to procure goods or services from a single source without competition.
- (28) A direct procurement is permitted -
- a) where only one supplier has the exclusive right to manufacture the goods or to supply the goods, works or services to be procured, and no suitable alternative is available;
 - b) within the prescribed limits, for additional deliveries of goods by the original supplier which are intended either as partial replacement or extension for existing goods, services, or installations and where a change of supplier would compel the EIF to procure equipment or services not meeting requirements of interchangeability with already existing equipment or service;
 - c) within the prescribed limits, where additional works which were not included in the initial contract have, through unforeseeable circumstances, become necessary and the separation of the additional works from the initial contract would be difficult for technical or economic reasons;
 - d) where, subject to a prescribed due diligence, the nature of the delivery of goods and services requires that a particular supplier be selected due to unique qualifications;
or
 - e) where, subject to a prescribed due diligence, continuity of the delivery of goods and services is essential to meet the objects of the procurement request.

Small value procurement

- (29) EIF may procure small quantities of goods, small works and services, which do not exceed the N\$ 5,000 without resorting to a formal competition.
- (30) The EIF must maintain record of quotations obtained for such procurements as prescribed.

SECTION D

Bidding process

Application of this Part

- (1) This Part applies to bids for procurement contracts.

Invitation for bidding

- (2) The EIF must prepare an invitation to bid inviting bidders to submit priced offers for the supply of goods, provision of non-consultancy services or for undertaking the works required as may be prescribed.

Pre-qualification proceedings

- (3) The EIF must conduct the pre-qualification proceedings for the procurement of large and complex procurement as prescribed. Above N\$ 1, 000,000, but not exceeding (Goods - 15 million), (Works - 20 millions), (Consultancy - 10 millions), (Non-Consultancy - 5 millions) and requiring technical and/or scientific input
- (4) In other cases of particularly high value or complex procurement, such as industrial plant, the EIF may conduct pre-qualification proceedings, with a view to identifying bidders that are qualified, before the invitation to bid.
- (5) Where pre-qualification proceedings are conducted, the EIF must provide pre-qualification documents to all bidders responding to the invitation for pre-qualification, so as to provide them with the information required to prepare and submit applications for pre-qualification.
- (6) On the completion of pre-qualification proceedings, the EIF must promptly make available to each applicant a list of the applicants who have been successfully prequalified.

Bidding documents

- (7) EIF must use the appropriate standard bidding document in the form substantially corresponding to a form determined by the Procurement Committee.
- (8) A bidding document must contain -
 - a) clear instructions on the management of the procurement process and
 - b) the applicable rules, including set dates to seek clarifications;
 - c) a clear description of the object of the procurement in the form of a statement of requirements;

- d) the methodology and criteria to be used in the evaluation of bids and the determination of the best evaluated bids; and
- e) and the proposed form and conditions of a contract or a statement of the form and conditions of a contract which will apply.

Two-stage bidding

- (9) the EIF may hold an open advertised bidding in two stages where -
 - a) it is not feasible to fully define the technical or contractual aspects of the procurement to elicit competitive bids; or
 - b) due to the complex nature of the goods or services to be procured, the EIF wishes to consider various technical or contractual solutions, and to discuss with bidders the relative merits of those variants before deciding on the final technical specifications and contractual conditions.
- (10) The EIF, in the bidding documents, during the first stage, must -
 - a) outline -
 - i. the purpose;
 - ii. the expected performance;
 - iii. the broad specifications of the equipment or service to be procured; and
 - iv. the qualifications required to perform the contract; and
 - b) call upon bidders to submit technical bids without a bid price and their comments on the proposed contract conditions.
- (11) The EIF may engage in discussions with any bidder with a view to understanding a technical bid or to indicating changes required to make it acceptable and seeking the willingness of the bidder to make such changes.
- (12) At the end of the first stage, the EIF may -
 - a) reject those bids which do not, and cannot be changed to meet the basic requirements, minimum performance, or required completion time or have any other weakness which makes the bid substantially non responsive; or
 - b) modify the technical specifications, evaluation criteria, and contract conditions in order to maximise competition and articulate appropriate evaluation methodology in order to consider various options put forth by the bidders.
- (13) In the second stage, the EIF must invite bidders whose bids have not been rejected to submit final bids with prices in the revised bidding documents

Bid security or bid securing declaration

- (14) Where applicable and in such manner as may be prescribed, the EIF must include in the bidding documents the requirements for bid security, or a prescribed declaration as an alternative form of bid security.
- (15) A bidder may forfeit a bid security or in the case of a declaration contemplated in subsection (14) be suspended or disqualified in the event of -
 - a) a modification or withdrawal of a bid after the deadline for submission of bids during its period of validity;
 - b) refusal by a bidder to accept a correction of an error appearing on the face of the bid;
 - c) failure by a successful bidder to sign a procurement contract in accordance with the terms and conditions set forth in the bidding documents; or
 - d) failure by a successful bidder to provide security for the performance of the procurement contract if required to do so by the bidding documents.

Submission of bids

- (16) Subject to this section, a bid is submitted in writing, duly signed and in a sealed envelope at the address specified in the bidding documents.
- (17) Invitations for pre-qualification and bidding documents may contain provision that allows submission of applications for pre-qualification or bidding by hand or mail or by courier at the option of the bidder.
- (18) The bidding documents may authorise other methods for the submission of bids if it is so prescribed.

Deadline for submission of bids

- (19) The EIF must set a deadline for the submission of bids, applications for pre-qualification and expressions of interest so as to allow sufficient time for the preparation and submission, with a view to maximizing competition, which may not be less than the prescribed minimum period.
- (20) Bids received by EIF after the deadline for submission of bids must be returned unopened to the bidder.

Withdrawal and modification of bids

- (21) A bidder may modify, substitute, or withdraw its bid after submission, where the written notice of the modification, substitution or withdrawal is received by EIF before the

deadline for the submission of bids.

Bid validity period

- (22) A bid remains valid for the period as indicated in the bidding documents, which may not be more than 180 days
- (23) The validity period of a bid may be extended only with the agreement of the bidder concerned.
- (24) A bidder who agrees to an extension of the validity period of his or her bid must furnish a corresponding extension of his or her bid security, if security was required for the original bid submission.

Prohibition of disqualified bidders and suppliers from participation

- (25) The EIF must ensure that no disqualified bidder or supplier is permitted to receive a procurement contract or otherwise participate in procurement proceedings.
- (26) A bidder or supplier is disqualified from bidding if such bidder or supplier -
 - a) is not in good standing with the Receiver of Revenue;
 - b) is not in possession of a valid certificate of good standing with the Social Security Commission or, in the case where company has no employees, confirmation letter from Social Security Commission;
 - c) is not, as required by the Affirmative Action (Employment) Act, 1998 (Act No. 29 of 1998), in possession of -
 - i. a valid affirmative action compliance certificate issue under section 41 of that Act;
 - ii. or an exemption issued under section 42 of that Act;
 - iii. a proof from the Employment Equity Commissioner that the bidder or supplier is not a relevant employer as defined in that Act; or
 - d) has not submitted a written undertaking as contemplated in section 138(2) of the Labour Act, 2007.

Opening of bids

- (27) A bid envelope is opened at the time and place indicated in the bidding documents.
- (28) The Tender box should have two locks kept separately by the Procurement Officer and Director of Finance and Administration.
- (29) The time of bid opening coincides with the deadline for the submission of bids, or follows immediately thereafter, if this is necessary for logistic reasons.
- (30) A bidder or his or her representative is authorised to attend the bid opening.

- (31) Bid envelopes must be opened by two (2) EIF employees or more.
- (32) At a bid opening session, the name of the bidder, the total amount of each bid, any discount or alternative offered, and the presence or absence of any bid security, if required, is read out and recorded, and a copy of the record is made available to any bidder on request.
- (33) The EIF may not take or announce a decision regarding the disqualification or rejection of a bid at a bid opening session.

Examination and evaluation of bids

- (34) The EIF may seek clarification during the examination of bids from any bidder to facilitate evaluation, but it may neither ask nor permit any bidder to change the price or substance of its bid.
- (35) The Bid Evaluation Committee must evaluate the bids, except where the request for sealed quotations method is used and where price is the determining factor.
- (36) Following the opening of bids, the EIF must -
 - a) examine the bids in order to determine whether they are complete and in accordance with the bidding document requirements; and
 - b) ascertain whether -
 - i. they are properly signed; and
 - ii. the documents required to establish their legal validity and the required security have been furnished.
- (37) Where a pre-qualification procedure is applicable, the EIF must reject a bid received from a bidder other than a prequalified bidder.
- (38) Where a bid discloses an arithmetical error, the EIF must correct the error and notify the bidder.
- (39) Where there is a discrepancy between figures and words, the amount in words prevails, and the EIF must correct the mistake and notify the bidder.
- (40) Where a bidder refuses to accept a correction made pursuant to subsections (36) or (37), his or her bid is rejected, and the bid security forfeited in accordance with subsection 15 (b).
- (41) Where there is a minor deviation in any bid that does not warrant rejection of the bid at an earlier stage, such minor variation is quantified in monetary terms as far as possible.

- (42) Every bid is evaluated according to the criteria and methodology set out in the bidding documents and the evaluated cost of each bid is compared with the evaluated cost of other bids to determine the most economically advantageous bid.
- (43) Where bidding documents provide for a margin of preference to local suppliers or to categories of local suppliers, the applicable margin of preference is at the rate determined by the Procurement Committee
- (44) Where a pre-qualification procedure is applicable, the qualification of the lowest evaluated bidder is verified anew to take account of any change since the original pre-qualification.
- (45) Where a substantial number of bids are tendered and it is not practical to evaluate all the bids, the EIF may select a sufficient number of lowest priced bids to evaluate after completing the preliminary examination.
- (46) The Bid Evaluation Committee must prepare an evaluation report detailing the examination and evaluation of bids and identifying the lowest evaluated bid that meets the qualification criteria.
- (47) In the exercise of its function, a Procurement Committee must act without fear, favour or prejudice, and is not, during the evaluation process, subject to the direction or control of any other person or Board, except as provided in this policy.

Post-qualification

- (48) Where no pre-qualification procedure was applicable, the qualification of the lowest evaluated bidder is checked against the criteria specified in the bidding documents.
- (49) Where the bid fails to conform to the criteria contemplated in subsection (46), EIF must reject the bid and apply the same check to the next ranked bid.

Cancellation of bidding process

- (50) The EIF may, at any time prior to the acceptance of a bid, reject all bids or cancel the bidding process, if -
 - a) all the bids are non-responsive;
 - b) the lowest evaluated bid is substantially above the applicable cost estimate;
 - c) the goods or services are no longer required;
 - d) it has been established that there has been collusion among the bidders as contemplated in subsection (54);
 - e) an irregularity that warrants the cancellation of the bidding process occurred;

- f) it is not economically viable to proceed with the bid; or
 - g) does not create or achieve the expected outcome.
- (51) The EIF must give a written notice of the rejection of all bids or cancellation of the bidding process to all bidders that submitted bids.
- (52) The EIF may not invite a re-bid for the procurement on the same specifications and contract conditions, if the rejection of all bids or cancellation of bidding process is made on a ground specified in subsection (50)(c), (f) or (g).
- (53) If the invitation for the procurement is to be repeated, the EIF
- a) examine the reason for the rejection of all bids or the cancellation of the bidding process; and
 - b) suitably modify the technical specifications or contract conditions.
- (54) “**Collusion among bidders**” means where two or more bidders enter into an agreement whereby a bidder -
- a) agrees not to submit a bid in response to an invitation for bids; or
 - b) agrees upon the price, terms or conditions of a bid to be submitted in response to an invitation to bid under Section C subsection (26) or Section D, subsection (2).

Award of procurement contracts

- (55) The EIF must award a procurement contract to the bidder having submitted the lowest evaluated substantially responsive bid which meets the qualification criteria specified in the pre-qualification or bidding documents, following the steps outlined in subsections (36) and (37).
- (56) There is no negotiation between the EIF and a selected bidder, except in such special circumstances as the Procurement Committee may determine.
- (57) The procurement committee, where special circumstances contemplated in subsection (54) apply, must initiate and oversee the negotiation between the EIF and a selected bidder.
- (58) The CEO, in relation to award of a procurement contract, must in writing notify –
- a) the successful bidder of the selection of its bid for award; and
 - b) the other bidders, specifying the name and address of the successful bidder and the price of the contract.
- (59) In the absence of an application for review by any other bidder within 7 days of the

notice referred to in subsection (58), the CEO must award the contract to the successful bidder.

- (60) A successful bidder may be requested to submit a performance security and sign a contract within the period specified in the bidding documents.
- (61) Where the bidder whose bid has been accepted –
- a) fails to sign a contract, or
 - b) fails to provide any required security for the performance of the contract, within the prescribed period,
- the EIF may select another bidder from amongst the remaining valid bids, and subsections (59) to (60) apply to the new selection.
- (62) The EIF must promptly in a prescribed manner publish a notice of every public procurement award.

Variations and lowest bid exceeding the prescribed threshold

- (63) Where -
- a) any variation in a contract price subsequent to the conclusion of a procurement contract causes the total contract amount to exceed the threshold of the EIF by more than 10 per cent; or
 - b) any variation in a contract price subsequent to the conclusion of a procurement contract awarded by the procurement committee causes the total contract amount to exceed by more than 10 per cent; or
 - c) the lowest bid submitted in response to an invitation made by a EIF exceeds the threshold of the EIF,

the matter together with all the bidding documents and the contract documents, if any, are dealt with by the EIF or Central Procurement Board.

Debriefing of unsuccessful bidders

- (64) The CEO, on request of an unsuccessful bidder, must promptly debrief the bidder of the reasons for which its bid or its application for pre-qualification was unsuccessful, if the request for such information was submitted within the prescribed period of the publication of the notice referred to in subsection (59).

SECTION E

Challenge and review procedures

Appeals Committee

- (1) When the CEO thinks it necessary on account of any of the grounds mentioned in subsection (3), the CEO may, appoint three persons, from a list of persons referred to in subsection (4) –
 - a) having qualifications, wide knowledge and experience in legal, administrative, economic, financial, trade, engineering, scientific or technical matters; and
 - b) of whom not more than two are of the same sex,

to constitute an appeals committee to adjudicate on application for -

- a) review;
 - b) suspension, debarment and disqualification of bidders and suppliers; or
 - c) any other matter that the CEO may refer to the appeals committee for its consideration.
- (2) The CEO must appoint one of the members of the Appeal Committee as the Chairperson of the Committee.
 - (3) The CEO must exercise the powers under subsection (1) on the grounds of allegations made in the application submitted to the Appeal Committee in terms of subsection 7.
 - (4) The CEO must compile a list of five persons with qualifications referred to in subsection 1 (a) after an invitation of expression of interest and may update it annually when necessary.
 - (5) A member of the Appeals Committee is appointed for the duration of the existence of such matter or for such period as the CEO at the date of appointment of the member may determine.
 - (6) The CEO may at any time remove -
 - a) the name of a person from a list referred to in subsection (4) who is guilty of –
 - i. misconduct, default or breach of trust in the performance of his or her functions in any capacity; or
 - ii. an offence of such nature that warrants the termination of the appointment of the member,

after having given the person a reasonable opportunity to be heard.

Application for review

- (7) A bidder or supplier may, as prescribed, apply to the Appeals Committee for review of a decision or an action taken -
 - a) by the Board; or
 - b) by the Procurement Committee,

for the award of a procurement contract.

- (8) An application for review made in terms of subsection (7) does not suspend the award unless an application has been made and resolved in favour of suspension.
- (9) The Appeals Committee must strive to make a decision as contemplated in subsection (11) within seven days of receipt of the application for review or as soonest as practical possible, but not later than 14 days.
- (10) A bidder or supplier who is aggrieved or claims to have suffered, or to be likely to suffer, loss under this policy must exhaust all available remedies under this policy before instituting any judicial action in the High Court.

Decisions of Appeal Committee

- (11) Upon receipt of the application for review referred to in subsection (7), the Appeals Committee may -
 - a) dismiss the application;
 - b) direct the Board or the Procurement Committee that has acted or proceeded in a manner that is not in compliance with this policy to act or proceed in a manner that is in compliance with this policy;
 - c) set aside in whole or in part a decision or an action of the Board or Procurement Committee that is not in compliance with this policy, other than any decision or action bringing the procurement contract or the framework agreement into force, and refer the matter back to the Board or Procurement Committee for reconsideration with specific instructions;
 - d) correct a decision or action by the Board or Procurement Committee that is not in compliance with this policy;
 - e) confirm the decision of the Board or Procurement Committee; or
 - f) order that the procurement proceedings be terminated and start afresh

Confidentiality in Review proceedings

- (12) All information in proceedings at the Appeals Committee are confidential, and a person who discloses such information to a third person without the authorization of the Appeals Committee, commits an offence and is liable to disciplinary hearing as prescribed by the EIF Human Resource (HR) policy.
For procurement processes conducted by the National Procurement Board section 61 subsections (1) and (2) of the Procurement Bill Act (2015) should apply.

SECTION F

PROCUREMENT CONTRACTS AND PROCUREMENT INTEGRITY

Contents of procurement contracts

- (1) A procurement contract includes the prescribed terms and conditions.
- (2) The parties must expressly agree in writing to any amendment to the contract, other than changes that do not alter the basic nature or scope of the contract.
- (3) An amendment to the contract that increases the contract value by more than 15 per cent requires fresh procurement proceedings, except where the amendment is effected for a reason specified in Section C, subsection 28(b) or (c).
- (4) No formal amendment of the contract is required if EIF wishes to make a variation or invokes a contract price adjustment which is expressly authorized in the contract.
- (5) The parties must include in every procurement contract a clause to the effect that in the execution of the contract, the remuneration and other conditions of work are not contrary to this policy or any other law, or contrary to the applicable minimum wage agreement.
- (6) A contractor may not transfer, cede or assign a procurement contract or its obligations under the contract to any other person.
- (7) Every contractor must familiarise themselves with and adhere to EIF's Environmental and Social Safeguards Policy .

Procurement integrity

Artificial division

- (8) There must be no artificial division of the modalities of procurement in such a way as to avoid any monetary threshold laid down by or under this policy.

Conduct of staff, Procurement Committees and Board members

- (9) A member of the Board, Procurement Committee and Bid Evaluation Committee involved in planning or conducting procurement process or contract administration must undertake -
 - a) to discharge his or her functions fairly and impartially and without fear, favour or prejudice to anyone so as to ensure fair competitive access to procurement by suppliers;
 - b) to act in the public and EIF's interest and in accordance with this policy;
 - c) to avoid any conflict of interest to arise in the carrying out of his or her functions and

in conducting himself or herself;

- d) to keep confidential any information that comes into his or her possession relating to procurement proceedings and bids, including proprietary information of bidders; and
- e) not deal or negotiate on behalf of the contractor or supplier for a contract he or she had specifically dealt with while in the service of the Board or Procurement Committee.

(10) A member referred to in subsection (9) must -

- a) disclose his or her interest or the interest of his or her close relative, if any, in terms of Section H, subsection (2), and in this paragraph, "close relative" means parent, sibling, spouse, child or grandchild, having substantial financial interest in the bidding entity; and
- b) withdraw from the procurement process if there is a potential conflict of interests, unless the Board or Procurement Committee decides that the conflict is trivial to affect the impartiality of the staff member or a Board member.

(11) A staff member referred to in subsection (9) who -

- a) acts or abets corruptly or fraudulently to gain favour or benefit, including soliciting or accepting improper inducement; or
- b) contravenes, or refuses or fails to comply with subsection (9) or (10),

commits an offence and is liable to disciplinary hearing as prescribed by the EIF Human Resource policy. For procurements conducted by the National Procurement Board section 66 subsections (3) (b) of the Public Procurement Act should apply.

Conduct of bidders and suppliers

(12) A bidder or supplier who -

- a) Engages in or abets any corrupt or fraudulent practice, including the offering or giving, directly or indirectly, of improper inducements, in order to influence a procurement process or the execution of a contract, including interference in the ability of competing bidders to participate in procurement proceedings; or
- b) Engages in any coercive practice threatening to harm, directly or indirectly, any person or the property of such person to positively influence the participation of the bidder or supplier in a procurement process, or to affect the execution of a contract,

commits an offence under EIF Fraud Policy of 2015 and the Anti-Corruption Act of 2003. For procurements conducted by the National Procurement Board section 66 subsections (3) (b) of the Public Procurement Act should apply.

(13) A bidder who engages in collusion, before or after a bid submission, designed to -

- a) allocate procurement contracts among bidders;
- b) establish bid prices at artificial non-competitive levels; or

- c) otherwise deprive the Board or the Procurement Committee of the benefit of free and open competition,

commits an offence under EIF Fraud Policy of 2015 and the Anti-corruption Act of 2003. For procurements conducted by the National Procurement Board section 66 subsections (3) (b) of the Public Procurement Act should apply.

Suspension, debarment and disqualification of bidders and suppliers

- (14) The Procurement Committee, under the prescribed conditions, may suspend or debar a potential bidder or supplier from participation in procurement proceedings on the following grounds -
 - a) supplying false information in the process of submitting a bid or pre-qualification application;
 - b) bid rigging or collusion between the bidders or a bidder and a supplier, agent, or staff member concerning the formulation of any part of the bidding documents;
 - c) interference by a supplier with the participation of competing bidders;
 - d) misconduct relating to the submission of bids, including corruption, bid rigging, price fixing, a pattern of under-pricing bids, breach of confidentiality, misconduct relating to execution of procurement contracts, or any other misconduct relating to the responsibilities of the bidder or supplier;
 - e) conviction for an offence relating to obtaining or attempting to obtain a procurement contract within five years prior to the bidding; or
 - f) conviction for an offence related to dishonesty or fraud or corruption in his or her professional activity within 10 years prior to the bidding and was sentenced to imprisonment without the option of a fine.
- (15) A suspension or debarment of a bidder or supplier under subsection (14) may not be effected unless the Appeal Committee -
 - a) considers the factual record developed by the Board or Procurement Committee that proposes the action;
 - b) gives reasonable notice to the bidder or supplier involved of the basis for the proposed action; and
 - c) gives reasonable opportunity to the bidder or supplier to respond to the proposed action.
- (16) A period of debarment under subsection (14) may not exceed five years.

SECTION G

PREFERENCES

Application of this Part

- (1) Despite anything to the contrary in this policy or any other law, the Procurement Economizing Committee and the Procurement Committee may grant preferential treatment in procurement in pursuance of the developmental and empowerment policies of the Government.
- (2) The Bid Evaluation Committee and Procurement Committee shall where appropriate recognize the procurement guidelines of development partners and agencies and henceforth ensure that such preferences are reflected in the relevant financing agreement or contract.

Codes of good practice

- (3) In order to promote the objects of this Section, the Bid Evaluation Committee and the Procurement Committee, by notice to the CEO, must issue codes of good practice on preferences referred to in subsections (6) and (7) of this Section, that may include -
 - a) the definitions of terms including further definitions of local preferences, price preferences, national preferences, the interpretation and definition of goods manufactured in Namibia;
 - b) qualification criteria for preferential treatment when persons participate in procurement activities, that may include equity, labour and produce;
 - c) indicators to measure empowerment through preferential treatment;
 - d) the weight to be attached to the indicators referred to in paragraph (c); and
 - e) any other matter, not inconsistent with the objects of this policy.
- (4) A code of good practice issued in terms of subsection (3) may set –
 - a) targets consistent with the objects of this Part; and
 - b) the period within which those targets must be achieved.
- (5) In order to promote the empowerment of women, as provided for in Article 23(3) of the Namibian Constitution, and the youth -
 - a) a code of good practice issued in terms of subsection (3); and
 - b) any targets specified in a code of good practice in terms of subsection (4),

must give priority to such groups and primarily to women who were socially, economically or educationally disadvantaged by past discriminatory laws or practices over any other category of previously disadvantaged persons.
- (6) The Procurement Committee should ensure that the targets referred to in subsection (4) are 70% for general bidders/suppliers and 30% for previously disadvantaged groups with 10% specifically allocated to women.

National preferences

- (7) The Board or Procurement Committee has the right to limit participation in procurement proceedings on the basis of citizenship in accordance with this Section.
- (8) The Board or Procurement Committee -
 - a) when procuring goods, works or services; or
 - b) when evaluating and comparing bids,

must give preference and the weights prescribed under subsection (3) to the benefit of bidders for -

- a) goods manufactured, mined, extracted or grown in Namibia; or
- b) works and services provided by Namibian citizens
- c) goods and services that conform to good environmental and social safeguards practices

but this must be clearly stated in the bidding documents subject to the prescribed requirements.

- (9) Namibian suppliers are eligible to be granted a margin of preference as provided for in subsection (8), if they meet the following criteria -
 - a) for a company if –
 - i. it is incorporated or registered in Namibia;
 - ii. the majority of the paid up share capital of the company is owned either by the Government or by citizens of Namibia; and
 - iii. major part of the net profits or other tangible benefits of the company accrues to Namibian citizens and no other arrangements by the company to the contrary.
 - b) for joint ventures of local companies if –
 - i. individual member companies are incorporated or registered in Namibia;

Exclusive preference to local suppliers

- (10) The Bid Evaluation Committee and the Procurement Committee may prescribe any nature of procurement supporting Government programmes to be reserved exclusively for categories of local suppliers and which is to be complied with by the Board and the Procurement Committee in the procurement of goods or services that has a value not exceeding that amount.
- (11) Where the Board or the Procurement Committee does not proceed with the local supplier as reserved in terms of subsection (10), and procures on unrestricted basis, the Board or Procurement Committee must include in the procurement file the reasons for the unrestricted procurement process.
- (12) Where the Board or the Procurement Committee receives only one acceptable offer from a qualified local supplier in response to the reserved procurement, the Board or Procurement, the committee must consider the offer and may make an award to such supplier subject to the price being considered as fair and reasonable.

- (13) Where EIF receives no acceptable offer from a qualified local supplier, the Board or Procurement Committee must withdraw the reserved procurement, and if the requirements are still valid, the Board or Procurement Committee must re-solicit new offers on unrestricted basis.

Exclusive preference to suppliers whose goods and services have a green footprint

- (14) The Procurement Committee may prescribe eco-friendly practices in the procurement of goods, services and works; and where possible reserve the provision of certain goods and services to suppliers that can prove to have principles of sustainable procurement.

These practices may include –

- a) A relatively small carbon footprint such as short transportation distances;
 - b) Supply of environmentally friendly products and services;
 - c) goods and services that conform to good environmental and social safeguards practices
- (15) The procurement committee will to this extent identify among its list of suppliers, suppliers with negative and positive sustainability performance/impacts through a review and analysis of established indicators.

SECTION H

GENERAL PROVISIONS

Oath of office

- (1) A member of the Board or Appeal Committee must on assumption of duty take the oath of office or affirmation in the prescribed form and manner.

Disclosure of interest

- (2) A member of the Board, Appeals Committee, Procurement Committee, Bid Evaluation Committee, the Procurement Officer and any staff member thereof having any direct or indirect interest in any matter brought before the Board, Appeals Committee, Bid Evaluation Committee, Procurement Committee, Procurement Officer -
 - a) must immediately inform, as appropriate, the Chairperson of the Committee or the CEO concerned of such interest; and
 - b) may not participate in the deliberations or any part of the decision-making process in relation to that matter, unless the Board, Bid Evaluation Committee, Procurement Committee or Appeal Committee, directs otherwise after having considered the matter and found the conflict of interest to be of trivial nature or consequences.
- (3) A person who contravenes or fails to comply with this section commits an offence and is liable under EIF Fraud Policy of 2015 and the Anti-Corruption Act of 2003. For procurements conducted by the National Procurement Board section 66 subsections (3) (b) of the Public Procurement Act should apply.

Undue influence

- (4) A person who directly or indirectly, in any manner, influences, or attempts to influence, a member of -
 - a) the Board;
 - b) the Appeals Committee;
 - c) the Procurement Committee;
 - d) Bid Evaluation Committee.

or any member of the Board, Panel, such committee or such unit in the exercise of any powers or performance of any functions in terms of or under this policy, commits an offence and is liable under EIF Fraud Policy of 2015 and the Anti-corruption Act of 2003

Indemnity

- (5) A member of the Board, Appeals Committee, Bid Evaluation Committee, Procurement Committee or the Procurement Officer and any staff member thereof is not liable for any loss or damages caused as a result of an act or omission committed in good faith under this policy, unless the loss or damages is attributed to the gross negligence or unlawful conduct of the member or staff member.

ANNEXURE 1

Terms of Reference for Bid Evaluation Committee

Purpose

In line with its Procurement Policy, the Environmental Investment Fund has created the Bid Evaluation Committee to oversee all procurement of goods and services above N\$ 5,000 up to N\$ 1,000,000, but not exceeding (Goods - 15 million), (Works - 20 millions), (Consultancy - 10 millions), (Non-Consultancy - 5 millions).

Functions

The function of the Bid Evaluation Committee is to implement the Procurement Policy and more specifically:

- i) to review and approve procurement requests,
- ii) develop and maintain the Suppliers Master file;
- iii) verify and authenticate equipment and service requests and needs for procurement;
- iv) identify appropriate procurement methods as per Procurement Policy;
- v) to issue standard forms of contracts, bidding documents, requests for proposals and other similar documents for mandatory use by every suppliers and partner agencies;
- vi) to develop and implement procurement assessment system to be used in assessing bids;
- vii) to investigate at its own accord or as instructed by the CEO any matter relating to procurement to establish whether the provisions of this Policy have been complied with;
- viii) to institute –
 - a. contract audits in the course of the execution of an awarded contract; and
 - b. performance audits after the completion of the contract in respect of any procurement, when it is necessary.

Composition

This committee will comprise of:

- i. The CEO shall appoint the an ad hoc bid evaluation committee members and must appoint one of them as chairperson.
- ii. The CEO must appoint not less than three and not more than seven members as members of the bid evaluation committee..
- iii. May co-opt persons from other public entities to assist in the Bid evaluation Committee.
- iv. May include one or more members of the user department as appropriate.
- v. For the sake of an independent evaluation process and avoidance of conflict of interest, a member of the Board, the CEO and members of the Procurement committee may not form part of a bid evaluation committee.
- vi. Procurement Officer shall serve as Ex-Officio, Secretariat

The Chairperson of the Bid Evaluation Committee may invite the requester of a particular good or service under review or a subject expert to provide clarity and suggestions.

Meeting frequency

The committee will meet on a weekly basis or as required.

Standing agenda

- i) Declaration of interests
- ii) Review of minutes
- iii) Report-back on previous procurement
- iv) Budget review (monthly)
- v) New purchase requests

The agenda should be circulated 2 days before the meeting.

Quorum

Three (3) voting members, including the Chairperson or Vice Chairperson will constitute a quorum.

Voting

All members shall have one vote. Co-opted members shall have no voting rights. In the event of a tie or a split decision, the Chairperson shall withdraw his/her vote.

A member may be excluded from voting on a bid where he/she declared his/her interest and where the members are of the view that the extent of the interest warrants that exclusion.

Reporting and feedback

Minutes of the meeting should be ready within 48 hours of the meeting. The minutes should accompany any award contract for internal record-keeping.

Review

The Bid Evaluation Committee shall review this Terms of Reference on an annual basis.

ANNEXURE 2

Terms of Reference for Procurement Committee

Purpose

In line with its Procurement Policy, the Environmental Investment Fund has created the Procurement Committee to oversee all procurement of goods and services above N\$ 5,000 up to N\$ 1,000,000, but not exceeding (Goods - 15 million), (Works - 20 millions), (Consultancy - 10 millions), (Non-Consultancy - 5 millions).

The Committee's main duties are to:

- a) monitor compliance with this Policy, directives, code of procedures and guidelines issued under this Policy;
- b) review the Procurement Policy and system and propose mechanisms for improving the implementation of the policy by staff members, suppliers and partner agencies;
- c) assess the impact of the procurement system on the socio economic policy objectives of the Government; and
- d) promote the fundamental principles of procurement governing the administration of procurement, as referred to in Section A, subsection 3.

Functions of the Procurement Committee

In executing any general or specific procurement directives issued by the CEO to achieve the objects of this Policy, the functions of the Procurement Committee, include amongst others –

- a) to propose various thresholds relevant to the Policy to the CEO relating to public procurement to be applied by the Fund;
- b) to prepare guidelines regarding procurement matters at the EIF;
- c) to prepare, update and issue directives, instructions, including the issuance of authorised versions of the standardised bidding documents, standard forms of contracts, pre-qualification documents, procedural forms, technical notes, manuals and any other attendant documents for mandatory use by suppliers;
- d) to issue standard forms of contracts, bidding documents, pre-qualification documents, requests for proposals and other similar documents for mandatory use by every suppliers and partner agencies;
- e) to design and maintain a roll of suppliers of goods, works and services, including their profiles;
- f) to set a list of services and supplies in common use by the EIF for centralised procurement using amongst others procurement contracts, standing offers and supply arrangements;
- g) to develop and implement procurement assessment system to be used in assessing bids;
- h) to facilitate communication with the Central Procurement Board for EIF procurement above the threshold facilitated by the Committee;
- i) to provide guidance on operational matters in procurement activities;
- j) to investigate at its own accord or as instructed by the CEO any matter relating to procurement to establish whether the provisions of this Policy have been complied

- with;
- k) to institute -
 - i. contract audits in the course of the execution of an awarded contract; and
 - ii. performance audits after the completion of the contract in respect of any procurement, when it is necessary; and
 - l) to perform such other functions as may be directed by the CEO from time to time or by any other law.

Composition of the Procurement Committee

The Procurement Committee may comprise of both EIF staff members and external parties. The composition will be as follows:

- a) The CEO shall appoint the committee members
- b) The CEO must appoint a chairperson and deputy chairperson of a procurement committee.
- c) A procurement committee must consist of not less than three and not more than five members and must include, a Financial Advisor or manager responsible for finance and one or more other persons at Management level.
- d) Procurement Officer must serve as ex officio, Secretariat

The Chairperson of the Procurement Committee may invite the requester of a particular good or service under review or a subject expert to provide clarity and suggestions.

The CEO has the right to review the membership of the Procurement Committee members.

Quorum

Three voting members, including the Chairperson or Vice Chairperson will constitute a quorum.

Standing agenda

- i) Declaration of interests
- ii) Review of minutes
- iii) Report-back on previous procurement
- iv) Budget review (monthly)
- v) New requests

The agenda should be circulated 2 days before the meeting.

Voting rights

All members shall have one vote. Co-opted members shall have no voting rights. In the event of a tie or a split decision, the Chairperson shall withdraw his/her vote.

A member may be excluded from voting on a bid where he/she declared his/her interest and where the members are of the view that the extent of the interest warrants that exclusion.

Review

The Procurement Committee shall review this Terms of Reference on an annual basis.