

THE PUBLIC PROCUREMENT ACT, 2004

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SCHEDULE
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THE UNITED REPUBLIC OF TANZANIA



No. 21 of 2004

I ASSENT

Benjamin W. Mhafa

President

8th February, 2005.

An Act to repeal the Public Procurement Act, 2001 with a view to make better provisions for the regulation of Public Procurement in the Government of the United Republic and to provide for other related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Public Procurement Act, 2004 and shall come into operation on the date of publication in the *Gazette*.

2.-(1) This Act shall apply:

- (a) to all procurement and disposal by tender undertaken by a procuring entity except where it is provided otherwise in this Act;
- (b) to entities, not of Government, for procurement financed from specific public finances.

(2) The Defence and National Security Organs shall comply with this Act subject to paragraphs (a) and (b) of this subsection:

- (a) the Defence and National Security Organs shall manage their procurement and disposal on the basis of a dual list, covering items subject to open and restricted

Short
title and
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Appli-
cation

- procurement or disposal methods respectively; and
- (b) the Defence and National Security Organs shall agree annually with the Public Procurement Regulatory Authority on the category of items to be included in the restricted list and on which restricted procurement methods set out in this Act or regulations made under this Act shall apply to each category of item on the restricted list.

Interpre-
tation

3.-(1) In this Act unless the context requires otherwise:-

“Accounting Officer” means a Government officer appointed in accordance with the provisions of Public Finance Act, 2004 to hold a vote and account for all monies expended from that vote;

“Approving Authority” means an Accounting Officer or Chief Executive, a Ministry tender board, a regional tender board, a district tender Board, a local Government tender board, or a parastatal tender board;

“Board” means Board of Directors of the Public Procurement Regulatory Authority;

“competitive selection” means the method of procurement whereby limited number of consultants or providers of services are invited by the procuring entity to compete with each other in submitting either unpriced or priced tenders, where the tenders are evaluated either on the basis, of quality alone or on the basis of a combination of quality and cost;

“competitive tendering” or “tendering” means the method of procurement whereby suppliers, contractors or consultants are invited by the procuring entity to compete with each other in submitting priced tenders for goods, works or services;

“consultant” means a firm, company, corporation, organisation, partnership or individual person engaged in or able to be engaged in the business of providing services in architecture, economics, engineering, surveying or any field of professional services, and who is, according to the context, a potential party or the party to a contract with the procuring entity;

“contractor” means a firm, company, corporation, organisation,

partnership or individual person engaged in civil, electrical or mechanical engineering or in construction or building work of any kind including repairs and renovation, and who is, according to the context, a potential party or the part to a procurement contract with the procuring entity;

“corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of public officer in the procurement process or contract execution;

“Defence and National Security Organs” means the Tanzania Peoples Defence Forces, the Tanzania National Service, Tanzania Police Force, Tanzania Prisons Service, Tanzania Intelligence Security Services, the National Security Council and the Prevention of Corruption Bureau;

“Department” in relation to a Ministry of Government or other public authority or public body, includes any division or unit by whatever name known of that ministry, authority or other body;

“disposal” means the divestiture of public assets including intellectual and proprietary rights and goodwill, and any other rights of a procuring and disposing entity by any means, including sale, hire - purchase, licences, tenancies, rental, lease, franchise, auction or any combination however classified other than those regulated by the Public Corporation Act, 1992;

“disposal process” means the successive stages in the disposal cycle, including planning choice of procedure, measures to solicit offers from tenderers, examination and evaluation of those offers and award of contract;

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Government and includes collusive practices among tenderers (prior to or after submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition;

“goods” means raw materials, products, equipment and other physical objects of every kind and description, whether in solid, liquid or gaseous form, electricity, intangible asset and intellectual property, as well as services incidental to the supply of the goods provided that the value of the services does not exceed the value of the goods

themselves;

“Government” means the Government of the United Republic of Tanzania;

“guidelines” means directives issued by the Public Procurement Regulatory Authority under section 87 of this Act;

“Independent Government Department” means a Department of the Government that is not under the direct control of the parent Ministry;

“Local government” means local government authority established under the Local Government Authority Act No. 7 of 1982 or Local Government Authority established under the Local Government Authority Act No. 8 of 1982;

“lowest evaluated cost” means the price offered by a supplier, contractor, or consultant that is found to be the lowest after consideration of all relevant factors and the calculation of any weighing for these factors, provided that such factors have been specified in the tender documents;

“Minister” means the Minister for the time being responsible for matters relating to finance;

“minor value” means an amount of money up to a maximum limit for the procurement of goods, works and services of a minor nature, to be determined each year by the Minister;

“parastatal organisation” means:-

- (i) a body corporate established by or under any Act or Ordinance other than the Companies Ordinance; or
- (ii) any corporation registered under the Companies Ordinance, in which not less than fifty percent of the share capital is owned by the Government or by another parastatal organisation, or in the case of a company which is limited by guarantee, where the government has undertaken to meet fifty percent or more of the liabilities of that company; or

(iii) any company, management, board, association or statutory body in which the Government has a majority or controlling interest and includes a government agency established under the Executive Agencies Act, 1997;

Act No.
30 of
1997

“person” includes any association of persons whether incorporated or not;

“pre-qualification” means a formal procedure whereby suppliers, contractors or consultants are invited to submit details of their resources, and capabilities which are screened prior to invitation to tender on the basis of meeting the minimum criteria on experience, resources, capacity and financial standing;

“post-qualification” means a formal procedure applied after tenders have been evaluated prior to award of contract, to determine whether or not the lowest evaluated tenderer has the experience, capability and resources to carry out the contract effectively;

“procuring entity” means a Public Body and any other body, or unit established and mandated by government to carry out public functions;

“procurement” means buying, purchasing, renting, leasing or otherwise acquiring any goods, works or services by a procuring entity spending public funds on behalf of a ministry, department or regional administration of the Government or public body and includes all functions that pertain to the obtaining of any goods, works or services, including description of requirements, selection and invitation of tenderers, preparation and award of contracts;

“procurement contract” means any licence, permit, or other concession or authority issued by a public body or entered into between a public body and a supplier, contractor or consultant, resulting from procurement proceedings for carrying out construction or other related works or for the supply of any goods or services;

“procurement expert or specialist” means a person who is engaged in a profession, occupation or calling in which recourse to procurement is directly or indirectly involved and has such knowledge and experience of the practice of procurement and has

been certified or registered by the procurement professional body;

"Procurement Management Unit" means a division or department in each procuring entity responsible for the execution of the procurement functions;

"procurement proceedings" means the proceedings to be followed by a procuring entity or any approving authority when engaging in procurement;

"procurement process" means the successive stages in the procurement cycle, including planning, choice of procedures, measures to solicit offers from tenderers, examination and evaluation of those offers, award of contract and contract management;

"procurement professional body" means a body established to oversee procurement professional development in the United Republic of Tanzania including training standards, professional certification or registration and professional practices and code of conduct;

"public body or public authority" means: -

- (i) any ministry, department or agency of government;
- (ii) any body corporate or statutory body or authority established for the purposes of the Government;
- (iii) any company registered under the Companies Ordinance being a company in which the Government or an agency of Government, is in the position to influence the policy of the company;
- (iv) any local government authority;
- (v) any parastatal organization.

"public finances" means monetary resources appropriated to procuring entities through budgetary processes, including the Consolidated Fund, grants, loans and credits put at the disposal of the procuring entities by local or foreign donors and revenues generated by the procuring entities;

"public officer or officer" means:-

- (i) any person holding or acting in an office of emolument in the services of the Government;
- (ii) a person holding or acting in the office of Minister in the Government;

- (iii) an employee of any body corporate such as is referred to in the definition of public body or public authority;
- (iv) any person conducting negotiations, for or in relation to a public contract, or a prospective public contract on behalf of a public body or public authority; or
- (v) a person who is a consultant to a public body or public authority;

“services” means any object of procurement other than goods or works, which involve the furnishing of labour, time or effort including the delivery of reports, drawings or designs, or the hire or use of vehicles, machinery or equipment for the purposes of providing transport, or for carrying out work of any kind, with or without the provision of drivers, operators or technicians;

“solicitation documents” means tendering documents or any other documents inviting tenderers to participate in procuring or disposal by tender proceedings and includes documents inviting potential tenderers to pre-qualify, and standard tendering documents.

“successful tender” means the tender selected by the procuring entity as:-

- (i) offering the lowest evaluated cost, in case the method of procurement used was competitive tendering; or
- (ii) being the most responsive to the needs of the procuring entity if procurement used was competitive quotations, single source procurement, competitive selection or where goods or services of minor value were procured;

“supplier” means company, corporation, organisation, partnership or individual person supplying goods or services, hiring equipment or providing transport services and who is, according to the contract, a potential party or the party to a procurement contract with the procuring entity;

“tender” means an offer, proposal or quotation made by a supplier, contractor or consultant in response to a request by a procuring

entity;

“terms of reference” means the statement issued by the procuring entity giving the definition of the objectives, goals and scope of the services, including where applicable the means to be used;

“works” means:-

- (i) all works associated with the construction, reconstruction, demolition, repair or renovation of a building, structure, road or airfield;
- (ii) any other civil works, such as site preparation, excavation erection, building, installation of equipment or materials, decoration and finishing;
- (iii) services which are tendered and contracted on the basis of performance of a measurable physical output such as drilling, mapping, satellite photography or seismic investigations:

Provided that, contracts which include the provision of works and services shall be regarded as works contracts if the total value of the works is greater than the value of the services covered by the contract.

(2) For purposes of this Act, a person is presumed to be an associate if:-

- (a) in the case of a public officer, that person is the public officer’s husband, wife or relative, or a husband or wife of the relative of the public officer;
- (b) that person is in partnership with the public officer; or
- (c) in the case of a body corporate, the public officer is a controller of the body corporate or the public officer and the persons who are his associates together are controllers of it.

(3) In this section, “relative” means brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendent and references to a husband or wife, and for the purposes of this subsection, a relationship shall be established as if any illegitimate child, step child or adopted child of a person had been a child born to the person in wedlock.

4.-(1) To the extent that this Act conflicts with an obligation of the United Republic under or arising out of:-

- (a) any treaty or other form of agreement to which the United Republic is a party with one or more other States or political sub-divisions of such States; or
 - (b) any grant agreement entered into by the United Republic with an inter-governmental or international financing institution in which the United Republic is the beneficiary,
the requirement of such treaty or agreement shall prevail, but in all other respects, the procurement shall be governed by this Act.
- (2) Where the United Republic enters into any treaty or other form of agreement favours an external beneficiary, then -
- (a) procurement made through contributions made by the United Republic shall be undertaken in the United Republic through national suppliers, contractors or consultants;
 - (b) all relevant insurances shall be placed with companies registered in the United Republic; and
 - (c) supplies shall be transported in carriers registered in the United Republic.
- (3) Where, for reasons of limitations of capacity, national suppliers, contractors or consultants are unable to satisfy wholly or in part, the specific procurement requirements, they shall be offered preferential opportunity to participate in the procurement or disposal by tender process of the beneficiary entity (in conjunction with firms in that country) and where applicable to offer such requirements from third sources.
- (4) A derogation from the application of the subsections (1) and (2) may be applied for to the Authority by the competent agency responsible for the procurement or disposal in question, with supporting documentation and justification.

Estab-
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of the
Autho-
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PART II

THE PUBLIC PROCUREMENT REGULATORY AUTHORITY

5.-(1) There is hereby established within the Ministry of Finance an authority to be known as the Public Procurement Regulatory Authority" in this Act referred to as the "Authority".

(2) The Authority shall:-

- (a) be a body corporate with perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and be sued;
- (c) for and in connection with the purposes of this Act, be capable of holding, purchasing and otherwise acquiring and disposing of movable or immovable property;
- (d) exercise the powers and perform the functions conferred upon it by or under this Act;
- (e) enter into any contract or other transaction, and do or suffer to do all such other acts and things, which a body corporate may lawfully perform, do or suffer to be done.

(3) The application of the common seal of the Authority on any document shall be authenticated by the signature of the Chief Executive Officer.

(4) Every document purporting to be an instrument issued by the Authority sealed with the seal of the Authority and authenticated in accordance with subsection (3), shall be deemed to be an instrument of the Authority and shall be received in evidence without further proof.

(5) Notwithstanding the preceding provisions of this section, and the Authority having the status of a body corporate, the Attorney-General shall have the right to intervene in any suit or matter instituted by or against the Authority.

(6) Where the Attorney-General intervenes in any matter in pursuance of subsection (5), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government.

6. The objectives of the Authority shall be to:-

- (a) ensure the application of fair, competitive, transparent, non-discriminatory and value for money procurement standards and practices;
- (b) harmonize the procurement policies, systems and practices of the Central Government, local governments and statutory bodies;
- (c) set standards for the public procurement systems in the United Republic of Tanzania,
- (d) monitor compliance of procuring entities; and
- (e) in collaboration with relevant professional bodies build procurement capacity in the United Republic.

Obj-
ctives of
the
Autho-
rity

7.-(1) The functions of the Authority shall be to:-

- (a) advise central Government, local governments and statutory bodies on all procurement polices, principles and practices;
- (b) monitor and report on the performance of the public procurement systems in the United Republic of Tanzania and advise on desirable changes;
- (c) set training standards, competence levels, certification requirements and professional development paths for procurement experts in consultation with relevant professional and any other competent authorities;
- (d) prepare, update and issue authorized versions of the standardized tendering documents, procedural forms and any other attendant documents to procuring entities;
- (e) in collaboration with relevant professional bodies, ensure that any deviation from the use of the standardized tendering documents, procedural forms and any other attendant documents is effected only after prior written approval of the Authority;

Functi-
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the
Autho-
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- (f) issue guidelines under section 89 of this Act;
- (g) organize and maintain a system for the publication of data on public procurement opportunities, awards and any other information of public interest as may be determined by the Authority;
- (h) conduct periodic inspections of the records and proceedings of the procuring entities to ensure full and correct application of this Act;
- (i) monitor the award and implementation of public contracts with a view to ensuring that:-
 - (i) such contracts are awarded impartially and on merit;
 - (ii) the circumstances in which each contract is awarded or as the case may be, terminated, do not involve impropriety or irregularity;
 - (iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each such contract conforms to the terms thereof.
- (j) institute:-
 - (i) procurement audits during the tender preparatory process;
 - (ii) contract audits in the course of the execution of an awarded tender; and
 - (iii) performance audit after the completion of the contract in respect of any procurement as may be required;
- (k) determiné, develop, introduce, maintain and update related system - wide data -bases and technology;
- (l) develop policies and maintain an operational plan on capacity building, both for institutional and human resource development;
- (m) agree on a list, which shall be reviewed annually of works, services and supplies in common use by more than one procuring entity which may be subject to common procurement;
- (n) establish and maintain institutional linkages with entities with professional and related interest in public procurement;
- (o) facilitate the resolution of procurement complaints;
- (p) undertake any activity that may be necessary for the execution

- of its functions;
- (q) administer and enforce compliance with all the provisions of this Act, regulations and guidelines issued under this Act; and
 - (r) undertake research and surveys nationally and internationally on procurement matters.
- (2) For the purposes of the discharge of its functions under this Act, the Authority shall be entitled:-
- (a) to an advice of the award and, where applicable, the variation of any public contract by the procuring entity responsible for such contract;
 - (b) subject to the provisions of section 12 of this Act, to have access to all books, records, documents, or other property belonging to the procuring entity or a contractor or a supplier or a consultant, sub-consultant, sub-contractors, sub-suppliers whether in the possession of any officer of a procuring entity or a contractor, supplier, consultant or any other person;
 - (c) to have access to any premises or location where work on a public contract has been or is being or is to be carried out;
 - (d) in relation to any matter which is the subject of investigation by the Authority, to have access to all books, records, documents or other property used in connection with the grant, issue, suspension or revocation of any prescribed licence whether in the possession of any public officer or any other person.
 - (e) have access to any premises or location where it has reason to believe that any such books, records, documents or other property as are referred to in paragraph (d) or any property which is the subject of a prescribed licence, may be found;
 - (f) within reasonable hours to enter any premises occupied by any person in order to make such enquiries or to inspect such document, record or property as it considers necessary to any matter being investigated by it; and
 - (g) subject to the provisions of sections 11 and 12, to retain any such document, record or other property referred to in

paragraph (f).

(3) Where:-

(a) the Authority has authorized a member of staff of the Authority to enter premises; and

(b) the authorized officer is refused or prevented from gaining entry to the premise,

a Magistrate may on application, be empowered to issue a warrant authorizing any police officer to forcibly enter the premises to conduct the search and make copies or take extracts of documents therein.

(4) For purposes of subsection (2), the Authority shall have power to enquire any procuring entity to furnish the Authority information with regard to the award of any public contract and such other information in relation thereto as the Authority considers desirable.

(5) For purposes of paragraphs (d) and (e) of subsection (2), the Authority shall have power to require any public officer or any other person to furnish in such manner and at such times as may be specified by the Authority, information with regard to the grant, issue, suspension or revocation of any prescribed licence and such other information in relation thereto as the Authority considers desirable.

Scope of
investi-
gations
by the
Autho-
rity

8.-(1) Subject to the provisions of subsection (2), the Authority may, if it considers necessary or desirable, conduct an investigation into any or all of the following matters:-

(a) the registration of contractors, suppliers or consultants in relation to the specific procurement;

(b) tender procedures relating to contracts awarded by the public bodies;

(c) the award of any public contract;

(d) the implementation of the terms of any public contract;

(e) the circumstances of the grant, issue, use, suspension or revocation of any prescribed licence; and

(f) the practice and procedures relating to the grant, issue,

suspension or revocation of any prescribed licence.

(2) The Authority shall with a prior written direction of the Permanent Secretary of the Ministry of Finance investigate:-

- (a) any public contract or any matters concerning any such contract entered into for the purposes of defence or for the supply of equipment to the security forces;
- (b) the grant or issue of any prescribed licence for the purposes of defence or for the supply of equipment to the security forces,

and any report or comment thereon by the Authority shall be made only to the Permanent Secretary of the Ministry of Finance and, or the Minister.

9. Any investigation pursuant to section 8 may be undertaken by the Authority on its own initiative or as a result of representations made to it, if in its opinion, such investigation is warranted.

Initi-
ation of
investi-
gation

10. The Authority may adopt whatever procedure it considers appropriate to the circumstances of a particular case and, subject to the provisions of this Act, may obtain information from such person or persons and in such manner and make such enquiries as it thinks fit.

Proce-
dure in
respect
of
investi-
gation

11.-(1) Subject to the provisions of subsection (3) and section 12(1), the Authority may at any time require any officer or member of a public body or any other person who, in its opinion, is able to give any assistance in relation to the investigation of any matter pursuant to this Act, to furnish such information and produce any document under the control of that officer, member or other person.

Evidence

(2) The Authority may summon before it:-

- (a) any person who has made representations to it; or
- (b) any officer, member or employee of a public body or any other person who, in the opinion of the Authority is able to furnish information relating to the investigation.

(3) No person shall, for the purposes of an investigation, be compelled to give any evidence, or produce any document or thing, which he could not be compelled to give or produce in proceedings in

Restri-
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matters

any court of law.

12.-(1) Where the Permanent Secretary of the Ministry of Finance, acting on his own initiative or acting at the direction of the Minister:-

(a) gives notice that the disclosure by the Authority or its employees of any document or information specified in the notice, or any class of document or information so specified, would:-

(i) involve the disclosure of the deliberations or decision of the Government or the Cabinet, or any committee thereof, relating to matters of a secret or confidential nature and is likely to be injurious to the public interest; or

(ii) prejudice the relations of the United Republic with the government of any other country or with any international organization; or

(iii) prejudice the detection of offences,

the Authority or its employees or any member of its staff shall not communicate to any person for any purpose any document or information specified in the notice or any documents or information of a class so specified,

(b) certifies that, the giving of any information or the answering of any question or production of any document would prejudice the security or defence of the United Republic, the Authority or its employees or staff shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided for in subsection (1), no regulation which authorizes or requires the refusal to answer any question or the withholding of any information or document or thing on the ground that the answering of the question or the disclosure of the information, document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before the Authority or its staff.

Proce-
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after
investi-
gation

13.-(1) After conducting investigation under this Act, the Authority shall, in writing inform the Accounting Officer or Chief Executive officer of the public body concerned of the result of that investigation and make such recommendations as it considers necessary in respect of the matter on which investigation was

conducted.

(2) If any report of the Authority reflects adversely upon any person, the Chief Executive Officer of the Authority shall, so far as practicable, inform that person of the substance of the report.

14.-(1) If the Authority finds, during the course of its investigation or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer, or member of a public body, it shall refer the matter to the competent authority.

Disciplinary
action
against
public
offices

(2) The Authority shall refer the matter to the person or persons competent to take such disciplinary or other proceedings as may be appropriate against that officer or member and in all such cases shall submit a special report to the Minister.

15. The proceedings of the Authority or its committees shall not be rendered void for want of form.

Proceedings of
Authority

16.-(1) In the exercise of its regulatory functions, the Authority shall have the power to:-

Powers
of the
Authority

- (a) require any information, documents, records and reports in respect of any aspect of the public procurement process where a breach, wrongdoing, mismanagement or collusion has been alleged, reported or proven against any procuring entity or supplier, contractor or consultant;
- (b) summon witnesses, call for the production of books of accounts, plans, documents and examine witnesses and parties concerned on oath;
- (c) commission or undertake investigations and institute procurement contract and performance audits;
- (d) cause to be inspected any procurement transaction to ensure compliance with a tender award by a procuring entity;
- (e) act upon complaints by procuring entities, suppliers, contractors or consultants and any other entity or person in respect of any party to a procurement proceedings in accordance with the procedure set out in Part VI of this

Act;

(f) commission any studies relevant to the determination of award of contracts; and

(g) request any professional or technical assistance from any appropriate body or person in Tanzania or elsewhere.

(2) The Public Procurement Regulatory Authority may:-

(a) require the chairman of a tender board, Accounting Officer or Chief Executive Officer of a public body:-

(i) to furnish any information or produce any records or other documents relating to a contract;

(ii) to answer all relevant questions; and

(b) examine such records or other documents and take copies or extracts there from.

17.-(1) The Authority may recommend to the competent authority, where there are persistent or serious breaches of this Act or regulations or guidelines made under this Act:-

(a) the suspension of officers concerned with the procurement process in issue;

(b) the replacement of the head of a Procurement Management Unit, the Chairman, or any member of a Tender Board, as the case may be;

(c) the disciplining of the Accounting Officer or Chief Executive Officer; or

(d) the temporary transfer of the procurement functions of a procuring entity to a third party procurement agent.

(2) The competent authority shall respond in writing to the Authority's recommendations within a period prescribed by regulations made under this Act.

(3) Where the competent authority rejects the Authority's recommendations under subsection (1), the Authority shall:-

Action
on
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(a) communicate its recommendations and all related supporting documentation to the relevant law enforcement and oversight agencies for their action; and

(b) request for any other appropriate action within the power of the competent authority.

(4) The competent authority shall respond in writing to the Authority's recommendation within a period to be specified in the regulations made under this Act, on the precise action taken on the Authority's recommendations, or give an explanation if no action is deemed necessary.

(5) The Authority shall, in its Annual Performance Evaluation Report include:-

(a) its audited findings and complaints investigated;

(b) its recommended corrective measures in each case;

(c) the response of the:-

(i) respective competent authority;

(ii) relevant law enforcement and oversight agencies; and

(d) any remedial measures taken.

18.-(1) There is hereby established a Board to be known as the Board of Directors of the Public Procurement Regulatory Authority.

(2) The Board shall be the governing body of the Authority.

(3) The First Schedule to this Act shall have effect regarding the composition, appointment and procedures of the Board of Directors of the Public Procurement Regulatory Authority.

(4) Members of the Board shall be appointed by the Minister from among persons of good standing and recognized for their high levels of professionalism, competence and integrity.

19.-(1) The Board may establish:-

(a) a Complaints Review Committee which shall handle complaints from bidders and any other interested parties arising out of the execution of the procurement function by the procuring entities;

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- (b) an advisory committee which shall review the performance of the Authority, the procuring entities and the Complaints Review Committee; and
 - (c) any other committee that may be necessary for the better carrying out of the functions of the Authority.
- (2) The Board shall determine the terms of reference of the committees, their composition and, in consultation with the Minister, their terms and conditions of service.

Appoint-
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20.-(1) There shall be Chief Executive Officer of the Authority who shall be appointed by the President on such terms and conditions as he determines on contract for four years, renewable for only one further term.

(2) The Chief Executive Officer shall be appointed from among the registered professionals who has at least ten years of experience in either engineering, architecture, law, materials management, quantity surveying, business administration, economic development planning or in any related fields and who have had substantial academic qualifications and experience in such fields including proven record of procurement experience.

(3) Subject to the general supervision and direction of the Board, the Chief Executive Officer, shall be responsible for the:-

- (a) management and operations of the Authority;
- (b) management of the funds, property and business of the Authority;
- (c) administration, organization and control of the officers and staff of the Authority; and
- (d) promoting training and disciplining of the officers and staff of the Authority in accordance with their terms and conditions of appointment.

(4) The Chief Executive Officer shall be the accounting officer of the Authority and shall not engage in any business, profession, occupation or paid employment elsewhere.

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21.-(1) There shall be employed by the Authority, Directors who shall be principal assistants to the Chief Executive Officer.

(2) There shall be employed by the Authority such other officers, staff, employees of the Authority of such number and titles as may be necessary for the efficient discharge of the functions of the Authority on such terms and conditions as may be determined by the Board.

(3) The Authority may appoint consultants and experts of the Authority in various disciplines on such terms and conditions as the Authority may from time to time decide or determine.

(4) The Authority shall establish a competitive selection procedure for the appointment of all employees, consultants and experts.

(5) The Authority shall, comply with the competitive selection procedure established under subsection (4), whenever it appoints employees, consultants or experts unless, because of the urgency of the appointment or other special circumstances, the procedure is not reasonably practical in any particular case.

(6) A person who was Chairman or member of the Board, the Chief Executive Officer as well as an employee of the Authority shall not, during a period of eighteen months after the expiration or termination of the term of office with the Authority:-

- (a) enter into any contract of employment or supply of services to any person or organization who was subject of a contract with the Authority at the time when such person was the member, Chairman, Chief Executive Officer or employee of the Authority;
- (b) acquire or hold any financial interest, whether as an employee, partner, shareholder, officer or joint venture, in any business or organization supplying services to any person or organization who was subject of a contract with the Authority at the time when such person was the member, Chairman, Chief Executive Officer or employee of the Authority.

Funds of
the
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22.-(1) The funds of the Authority shall consist of:-

- (a) money appropriated by Parliament for the purposes of the Authority;
- (b) loans or grants received by the Authority for its activities;
- (c) revenues collected from goods or services that are rendered by the Authority; and
- (d) any such other money received or made available to the Authority for the purposes of its functions.

(2) The Authority may:-

- (a) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the performance of its functions; and.
- (b) charge and collect fees on documents.

(3) There shall be paid from the funds of the Authority:-

- (a) the salaries, allowances and loans of the staff of the Authority,
- (b) such reasonable travelling, transport and subsistence allowance for members or members of any committee of the Authority when engaged on the business of the Authority, at such rates as the Minister may determine; and
- (c) any other expenses incurred by the Authority in the performance of its functions.

(4) The Authority may, invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

(5) The Authority shall open and maintain bank accounts in banks approved by the Board.

