



GOVERNMENT OF JAMAICA

**HANDBOOK OF PUBLIC SECTOR
PROCUREMENT PROCEDURES
(MAY, 2001)**

National Contracts Commission
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Acknowledgements

This HANDBOOK OF PUBLIC SECTOR PROCUREMENT PROCEDURES is the definitive document on the subject as of 1 May 2001. It updates and replaces all previous procedural guidelines and memoranda issued on the subject of public sector procurement. The Handbook will have to be updated with time and usage. Contributions toward such updates should be addressed to the Chairman of the National Contracts Commission.

The HANDBOOK was prepared with the assistance of a Working Group consisting of representatives of the following private and public sector organizations:

- The Ministry of Finance and Planning
- The Incorporated Masterbuilders Association of Jamaica
- The Professional Societies Association of Jamaica
- The Joint Consultative Committee for the Building and Construction Industry of Jamaica
- The Ministry of Transport & Works
- The Jamaican Institute of Architects
- The Port Authority of Jamaica
- The Ministry of Education & Culture
- The Airports Authority of Jamaica
- The Jamaica Institution of Engineers
- The Jamaican Institute of Quantity Surveyors
- The Ministry of Health
- The National Water Commission
- The Urban Development Corporation
- The National Contracts Commission

The National Contracts Commission wishes to thank all those persons and organizations who have participated in preparing the HANDBOOK, whether directly in the Working Group or by commenting on it during the drafting stages.

The HANDBOOK is now distributed for USE. It is the guide to all persons responsible for public sector procurement actions. It is the reference document for all procurement by public sector entities.

Any comments should be addressed to the NATIONAL CONTRACTS COMMISSION.

**CHAIRMAN,
NATIONAL CONTRACTS COMMISSION**

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SECTION 1 - INTRODUCTION

1.1 PURPOSE AND AUTHORITY OF ISSUANCE

The Handbook of Public Sector Procurement Procedures (Handbook) is intended for the guidance of officers and consultants engaged in planning and managing the procurement of goods, works and services on behalf of the procuring entity as defined herein. For the purposes of the Handbook, a procuring entity is any government Ministry, Department, Statutory Organization, Executive Agency, Local Government Authority, Public Company or any other Agency of Government that engages in procurement.

The procedures developed for the procurement of works, goods, and services are intended to ensure that:

- the procurement process is fair and transparent;
- contractors are judged solely on the basis of competence and capability without regard to gender, religion, age, political affiliation, or race; and
- tender and contract documents include specifications or terms of reference in appropriate form and in sufficient detail to make clear the required nature of the works, goods or services being procured, including, where appropriate, drawings and/or other illustrative tools, national and/or international standards and procedures for verifying compliance with specifications and required standards for the remedying of any defects or deficiencies therein.

This Handbook is issued under the authority of the National Contracts Commission in accordance with the Contractor General Act (1999).

Other applicable policy, laws, regulations and standards include:

- Public Sector Procurement Policy ;
- The Financial Administration and Audit Act;
- The Financial Administration and Audit Act (Instructions), 2000;
- [Anti-Corruption Legislation] and any regulations hereunder;
- Natural Resources Conservation Authority Act, 1991;
- [National Solid Waste Management Authority Act] and regulations established there under;
- Natural Resources Conservation (Permits and Licenses) Regulations, 1996;
- [Natural Resources Conservation Authority Regulations] for Air Emissions;
- The Petroleum Quality Control Act, 1990 and any regulations there under;
- Natural Resources (Prescribed Areas) Prohibition of Categories of Enterprise, Construction and Development Order, 1996;
- Jamaica Water Sector Policy, January 1999;
- Jamaica Energy Sector Policy, 1995;
- Jamaica Bureau of Standards – JS178 and JS217, as applicable;
- Environmental Guide to Green Procurement, 2000;

- Weights and Measures Act (1976);
- Weights and Measures Conversion of Unit of Measurement Order (1998);
- Occupational Safety and Health Legislation;
- The Public Health Act (1968);
- The Factories Act (1943) and any regulations there under;
- Trade Prohibition of Importation (Equipment containing Chlorofluorocarbons) Amendment Order, 1998; and
- Trade Restriction on Importation (Chlorofluorocarbons) Order, 1999.

Procuring Entities are advised to obtain a copy of the above documentation in order to familiarize procurement officers with the various legislation, regulations and standards that impact public sector procurement.

1.2 SCOPE OF APPLICATION

The Handbook applies to all procurement carried out by procuring entities as defined in Section 1.4 “Definitions.” Procuring entities shall, in carrying out procurement activities, follow the procedures as set out herein. Exceptions include procurements of a “sensitive” nature for national defense and/or security purposes.

1.3 ADMINISTRATION OF THE HANDBOOK OF PUBLIC SECTOR PROCUREMENT PROCEDURES

Pursuant to the Contractor General Act (1999), the National Contracts Commission (NCC) holds direct responsibility for the development and maintenance of this Handbook. Contractors and procuring entities are encouraged to communicate implementation experiences to the NCC in order to better inform the continued development of best practice guidelines and procedures.

1.4 DEFINITIONS

Term	Definition
Consultant	A service provider whose services are primarily intellectual in nature.
Consultant Services	Services that are primarily intellectual in nature.
Contract Value Threshold	<p><u>Internal</u>: Internal contract value thresholds are contract values above or below which specific procedures apply.</p> <p><u>International</u>: International contract value thresholds are contract values above which participation in procurement opportunities are open to both domestic and foreign contractors.</p>
Contractor	Any provider of goods, services or works.
Currency	Monetary unit of account
Day	Calendar day, unless otherwise specified
Domestic Contractor	A contractor having his principal place of business in Jamaica
Goods	Objects of every kind and description (except land or interest in land), including raw materials, products and equipment and objects in solid, liquid or gaseous form, and electricity, as well as services incidental to the supply of the goods if the value of those incidental services does not exceed that of the goods themselves.
Life cycle cost over time	The total cost to Government of procuring, operating supporting and (if applicable) disposing of the items being procured.
Offsets	Measures used to encourage local growth and development or improve balance of payments accounts by means of domestic content, licensing of technology, investment requirements, or similar arrangements.
Procurement Contract	A contract between the procuring entity and a contractor resulting from procurement proceedings
Procurement Officer	A person with the authority to conduct procurement activities on behalf of the procuring entity, as delegated by the Accounting Officer.
Procurement Planner	The designated person, persons, or office responsible for developing and maintaining a written procurement plan; or for the planning function in procurement not requiring a written

	plan.
Procurement Planning	The process by which the efforts of all personnel responsible for a procurement are coordinated and integrated through a comprehensive plan for fulfilling the procuring entity's need in a timely manner and at a reasonable cost.
Procuring Entity	Any government Ministry, Department, Statutory Organization, Executive Agency, Local Government Authority, Public Company or any other Agency of Government that engages in procurement.
Public Sector Procurement	Acquisition of goods, services or construction works, by any method, by or on behalf of procuring entities for their use.
Services	Any object of procurement other than goods or works.
Works	Means all work associated with the construction, reconstruction, demolition, repair or renovation of a building, structure, roadway, or other site, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, seismic investigations and similar services provided pursuant to the procurement contract, if the value of those services does not exceed that of the construction itself.
NCC Register of Public Sector Contractors	A register of public sector contractors who have satisfied prescribed criteria for placement in specified categories and grades of work.

1.5 THE PUBLIC SECTOR PROCUREMENT SYSTEM

1.5.1 OVERSIGHT RESPONSIBILITIES

1.5.1.1 Ministry of Finance and Planning

The Ministry of Finance and Planning has overall responsibility for the public sector procurement system including direct responsibilities for informing public sector procurement policy, monitoring the implementation of those policies particularly with regard to public expenditure, and facilitating a proper understanding of the governing documentation service-wide. In carrying out these functions and in accordance with the FAA Act, the Ministry of Finance and Planning shall effect routine investigations of the procurement activities/operations of any procuring entity and shall maintain a Public sector procurement Reporting System containing information relative to governing documentation and contract awards. This information is available to any member of the general public from the Ministry's Procurement Policy Implementation Unit. Additionally, market trends and other specialty reports are available upon request and at a cost, to the general public.

1.5.1.2 Office of The Contractor General

In accordance with the Contractor General Act, the Contractor General shall monitor and, as necessary, investigate, at its own discretion, the award and implementation of any government contract, in order to ensure that such contract is awarded impartially and on the basis of merit, that the circumstances under which it is awarded or terminated do not involve impropriety or irregularity, and that the contract is implemented in conformity with its terms and conditions.

1.5.2 FUNCTIONAL RESPONSIBILITIES

1.5.2.1 National Contracts Commission

The NCC shall promote efficiency, transparency and equity in the process of award of government contracts. It shall also review procuring entity contract award recommendations for the procurement of goods, services and works with estimated values equal to or above J\$4M. The NCC is responsible for the development of procurement regulations and procedures in accordance with procurement policy, and the maintenance of the Register of Approved Contractors. Additional functions of the NCC are as stated in Section 23 of the Contractor General Act (1999).

Except for procurements of a "sensitive" nature, e.g., weaponry, passports, etc., all procurements above the specified threshold must be referred to the NCC for approval of award recommendation.

1.5.2.2 National Contracts Commission Sector Committees

The NCC's review of procuring entities' contract award recommendations are facilitated through the operation of a number of Sector Committees established in various procuring entities service-wide. Procuring entities must note the location of their assigned Sector Committees in Appendix 3.

1.5.2.3 Procurement Committees

Each procuring entity shall establish a Procurement Committee consisting of not less than four (4) persons appropriate to the needs of the entity. The Procurement Committee shall be comprised as follows:

- Chairman;
- Senior Financial Management Personnel;
- Secretary; and
- Procurement Officer (non-voting member).

Technical personnel should co-opted as necessary, pursuant to the nature of the procurement.

The Procurement Committee is mandated to:

- ensure compliance with relevant policies, guidelines and procedures;
- effect objective evaluation processes with respect to quotations, tenders and requests for proposals;
- facilitate response to contractor inquiries;
- maintain proper record of Committee meetings, including records of the procurement; and
- ensure compliance with reporting obligations.

Procurement Committee meetings should be convened pursuant to the needs of the entity. Proper minutes must be recorded and maintained for each meeting. The quorum of the meeting should be pre-determined by the Chairman and no meeting shall be properly convened in the absence of this quorum.

1.5.2.4 National Contact Point

The Procurement Policy Implementation Unit in the Ministry of Finance and Planning is the national contact point for information/clarification on public sector procurement policy, legislation, regulation and procedure. It is also the designated feedback and reporting mechanism for the public sector procurement system. Public and private sector users are encouraged to communicate experiences through this facility in an effort to improve the system.

1.5.2.5 Accounting Officers

Pursuant to the Financial Administration and Audit Act, Accounting Officers are accountable to the Minister of Finance and Planning for the propriety of procurement

expenditure effected by their portfolio entities. Accounting Officers are advised that unless prior written permission is received from the Ministry of Finance and Planning, strict compliance with the procedures contained in this Handbook shall be enforced. Non-adherence will be addressed in accordance with the Financial Administration and Audit Act and the Public Service Regulations.

1.6 CODE OF CONDUCT

Public sector procurement proceedings shall be afforded the highest practicable degrees of objectivity. In circumstances of conflicting interests, e.g., parties involved in the procurement process and who have connection(s) with participating tenderer(s), the GOJ party must so declare at the on-set of the procurement process or whenever the party becomes aware of the conflict, whichever is sooner, and shall immediately disqualify himself/herself from participation in the particular procurement process.

SECTION 2 GENERAL PROCEDURES

2.1 PROCUREMENT PLANNING

2.1.1 GENERAL

Procuring entities shall perform forward planning for all procurements in order to ensure that GOJ meets its needs in the most effective, economical and timely manner. Annual procurement plans shall coincide with budgets and targets to be achieved. Plans shall address the technical, operational, management, budget and other significant considerations. Officers engaged in planning and managing procurement must be aware of all legislation in order to inform decision-making processes.

2.1.2 PROCUREMENT PLANS

The duration of time required to properly carry out the following activities should be estimated and used to develop a plan so that the procuring entity has realistic expectations on which any necessary recruitment and financing plans may be predicated.

- Research;
- Design;
- Development of Tender Documentation;
- Advertising;
- Prequalification;
- Tendering;
- Evaluation;
- Approval;
- Acceptance;
- Implementation; and
- Completion.

2.1.3 PROCUREMENT METHODS AND CONDITIONS FOR THEIR USE

Officers involved in procurement must plan the process to ensure that the most appropriate methods of procurement are employed having regard to the nature and value of the goods, works or services required and the circumstances surrounding the procurement. Following are the methods that have proven to be effective, but additional methods may be used with the agreement of the NCC.

2.1.3.1 Open Tender

Open tender means the procurement opportunity is open to all interested local and foreign contractors. Contracts with estimated value equal to or greater than the international contract value threshold(s), for construction works, including the associated consulting

services, goods, and services, as determined by the Cabinet from time to time must be offered through open tender.

2.1.3.2 Selective Tender

Selective tendering is GOJ's primary method of procurement. All contractors must be registered with GOJ, through the National Contracts Commission, and included in the GOJ Register of Approved Contractors. Procurement opportunities offered through selective tender are open to all appropriately registered and qualified contractors, and are generally advertised as shown in Section 6. Procuring entities should endeavour to plan their procurement processes in order to allow sufficient time for interested contractors to complete the required registration and/or pre-qualification processes in time to prepare and submit responsive tenders.

2.1.3.3 Limited Tender

Limited tender is a form of selective tender, whereby the procurement opportunity is open to a limited number of contractors included in the Register of Approved Contractors. It includes the Request for Quotation (RFQ) and Sole Source procurement procedures. Procurement offered through limited tender is generally not advertised. Instead, procuring entities may contact appropriately qualified contractors on the register and invite them to participate. Criteria for selecting contractors from the register should include:

- Nature of the work required;
- Contractor's relevant experience;
- Contractor's past performance record; and
- Contractor's current financial and technical capacities.

The prepared lists of contractors shall be submitted to the Procurement Committee or such other person(s) as may be nominated by the Procurement Committee for approval prior to any contractor being invited to tender.

While limited tendering methods should generally be used for procurements with estimated values of less than J\$1M, they may be used in the case of sole source or direct contracting as shown below.

2.1.3.4 Sole Source or Direct Contracting

Sole Source or direct contracting is a form of limited tendering where only one contractor is invited to participate. Use of this method may be justified when procurement is of a "sensitive" nature, when the procuring entity receives an unsolicited proposal that it considers to be meritorious, in the case of follow-on procurements, when there is unusual and compelling urgency, industrial mobilization, where there is need for highly specialized expert services, pursuant to external agency agreement or treaties, or where it is otherwise in the public interest. Procurement effected through the use of sole source or direct contracting methods must contain justification for its use in the record of the procurement.

2.1.4 THE LEASE OR PURCHASE DECISION

Procuring entities should address this issue on a case-by-case basis, evaluating the comparative life-cycle costs, the nature of the procurement, and other relevant factors. At a minimum, the procuring entity should consider:

- Estimated period of time the equipment is to be used and the extent of use within that period;
- Financial and operating advantages of alternative types and makes of equipment;
- Cumulative rental or lease payments for the estimated period of use;
- Net purchase price;
- Opportunities for re-deployment of equipment after completion of intended use;
- Transportation and installation costs;
- Maintenance and other service costs; and
- Potential obsolescence due, for example, to imminent technological improvement(s), etc.

2.1.4.1 Purchase

As a general rule, the purchase method is appropriate if the good or service will be used beyond the point in time when cumulative leasing costs exceed the purchase costs.

2.1.4.2 Lease

The lease method is appropriate if it is to GOJ's advantage under the circumstances *of* the particular procurement. The lease method may also serve as an interim measure when the circumstances require immediate use of the good or service to meet objectives or do not currently support acquisition by purchase.

2.1.5 EXTERNAL FUNDING AGENCIES

A significant percentage of the larger GOJ contracts are often funded by agencies external to GOJ, e.g., World Bank, Caribbean Development Bank, etc. The Ministry of Finance and Planning is encouraged to negotiate with these agencies for the application of domestic content requirements in these contract actions, on the basis of the relative smallness of the economy and the need to encourage domestic growth and development.

2.2 FRAMEWORK AGREEMENTS

GOJ enters into framework agreements on an annual basis for the supply of commonly used disposable goods and services. These agreements are entered into by the Ministry of Finance and Planning on behalf of GOJ and reflected in an annual GOJ Schedule of Framework Agreements (“Schedule”). Contracts awarded will be in respect of goods and services for the following entities:

- Central Government Ministries;
- Central Government Departments; and
- Any other procuring entity, at its option.

Applicable procedures are contained within the Schedule, which is disseminated to procuring entities one month prior to the start of each fiscal year.

2.3 EXPENDITURE AUTHORITIES

The expenditure authorities required before a Procuring Entity may enter into a contract are currently as follows:

Less than J\$4,000,000	Agency or Ministry shall approve subject to procedures included herein.
From J\$4,000,000.00 but less than J\$15,000,000	Minister shall approve on the recommendation of the NCC.
J\$15,000,000 and above	Cabinet, on the recommendation of the NCC and Minister.
<p><u>Note:</u> In cases where procurement is funded by an agency external to GOJ, e.g., the World Bank, approval of that agency may also be required.</p>	

2.4 COMPETITION REQUIREMENTS

Procuring entities should employ competitive procedures best suited to the circumstances of the contract action, as guided by this Handbook, and consistent with the need to fulfill GOJ's requirements efficiently and effectively.

2.4.1 IMPARTIALITY

GOJ promotes fair and equal opportunity for all qualified and appropriately registered providers of works, goods and services, without regard to political affiliation, race, gender, age or religion.

2.5 PUBLICATION REQUIREMENTS

2.5.1 INFORMATION DISCLOSURE TO THE PUBLIC

Except when ordered to do so by a competent court, and subject to the conditions of such an order, the procuring entity shall not disclose:

- information if its disclosure would be contrary to law, would impede law enforcement, would not be in the public interest, would prejudice legitimate commercial interests of the parties or would inhibit fair competition; or
- information relating to the examination, evaluation and comparison of tenders, proposals, offers or quotations, and tender, proposal, offer or quotation prices, other than a summary of the evaluation and comparison of tenders, proposals, offers or quotations.

2.5.2 PUBLIC ACCESSIBILITY OF PROCUREMENT DOCUMENTATION

Applicable legislation, guidelines and procedures and all amendments thereof, are published in the English language, and available to any member of the general public from the Jamaica Printing Services located at 77½ Duke Street, Kingston.

2.5.3 PUBLICIZING PROCUREMENT OPPORTUNITIES

Advertising and other publication guidelines are contained in the procedures at the various contract value threshold levels. As a general rule and pursuant to Cabinet Directive, public sector advertising shall be coordinated through the Jamaica Information Service (JIS). As such, all advertisements to be placed in national media shall be forwarded to the JIS for facilitation of publication. Procuring entities are responsible for effecting payment to the JIS, in accordance with the terms and conditions of the GOJ/JIS Framework Agreement.

2.5.4 PUBLIC NOTICE OF CONTRACT AWARDS

Contract award data is available in print from the National Contracts Commission and the National Contracts Commission website at www.ncc.gov.jm

2.6 CONTRACTOR REGISTRATION AND CLASSIFICATION

Contractors desiring participation in public sector procurement opportunities must be registered with the NCC. Qualification requirements for government-approved status include documented proof that applicants are capable of satisfactory performance in the categories and grades within which they apply to be registered, i.e., carrying out the work, delivering the goods, providing the services or installing equipment. Contractors interested in providing goods and services, including construction works, to the government may contact the NCC for further information.

Evaluation criteria for registration shall include the following:

- Experience;
- Professional qualification(s);
- Performance record;
- Legal capacity to enter into contract;
- Tax compliance
- Capacity (managerial, technical and financial, as necessary).

Registration with the NCC does not automatically guarantee participation in public sector procurement opportunities. Pursuant to the terms and conditions for participation in particular procurement opportunities, procuring entities may require that contractors demonstrate eligibility in accordance with stated criteria, which shall relate only to performance, experience, professional qualification, technical, managerial and financial competence, and tax compliance. All government entities that engage in procurement activities are required to utilize the GOJ registers, except in the following circumstances:

- no qualified firm in the particular discipline desired has been registered; or
- no response to tender or proposal invitation is received
- where open tendering is utilized

The GOJ registers of approved contractors shall be the sole such documentation for use by procuring entities in verifying a contractor's "GOJ-approved status." However, contracts with an estimated value of over J\$150M, shall require a pre-qualification process.

2.6.1 DEBARMENT, SUSPENSION AND INELIGIBILITY

A contractor may be disqualified and/or stricken from the registers of approved contractors, without liability to GOJ, if it is found, at any time, that the information

submitted concerning the qualifications of the contractor was deliberately false. Procuring entities should promptly report any such findings, along with any evidence and the reason(s) for its findings of falsification, to the NCC.

A contractor may be disqualified, suspended or stricken from the registers of approved contractors, without liability to GOJ, for reasons of poor performance, pursuant to the contract documents. Procuring entities shall promptly report any such findings, along with any evidence and the reason(s) for its findings to the NCC.

2.7 OVERSEAS PROCUREMENT OR FOREIGN PURCHASES

The Accountant General is mandated to monitor expenditure in respect of overseas purchases and/or payments to be made in foreign currencies, as provided in foreign exchange budgets of procuring entities.

To give effect to the foregoing, the Accounting Officer/Head of Procuring Entity shall ensure:

- preparation and submission of indents to the Accountant General for authorization of foreign exchange transactions;
- liaison with commercial banks to obtain required Letters of Credit, Sight Drafts and/or Telegraphic Transfers;
- where purchases are being made through persons or agencies appointed by Government to purchase supplies overseas, that the amounts required to meet the cost of the goods and or services as well as all incidental charges in the designated foreign currency, are deposited with the Accountant General;
- engagement of the services of a licensed Customs Broker, registered and approved by the NCC to provide services to GOJ, to prepare the Custom Entry Document (C78) and effect clearance of the imported item(s);
- that the C78 is imprinted with an official GOJ stamp, said activity to be performed by the Accounting Officer/Head of Entity or by a senior officer to whom the Accounting Officer/Head of Entity has delegated this authority, and countersigned and stamped by the designated officer(s) in the Ministry of Finance and Planning - Procurement Policy Implementation Unit (PPIU); and
- that the Commissioner of Customs and the Ministry of Finance and Planning (PPIU) are informed of the names / addresses of the Customs Broker(s) authorized to effect port of entry clearances on the entity's behalf.

2.8 REJECTION OF ALL TENDERS, PROPOSALS, OFFERS OR QUOTATIONS

The procuring entity may reject all tenders, proposals, offers or quotations at any time prior to the acceptance of a tender, proposal, offer or quotation, without incurring liability to tenderers. The procuring entity must, upon request, provide the grounds for any such rejection, but is not obliged to justify those grounds.

2.9 SUSTAINABLE DEVELOPMENT

2.9.1 GREEN PROCUREMENT

Procuring entities shall comply with the provisions of any national policy, law, regulation, guideline or standard related to pollution control and prevention, waste management, recycling, water and energy conservation, as shown in Section 1.1. Additionally, the GOJ “Environmental Guide to Green Procurement” shall be used in conjunction with the Handbook. This booklet provides a general checklist and best practice guidelines for evaluating whether the desired item to be procured is “environmentally-friendly.”

2.9.2 OCCUPATIONAL RIGHTS AND FREEDOMS

Procuring entities should require that, in the execution of a GOJ contract, a contractor shall:

- pay rates of wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in the district where the work is carried out;
- in respect of all persons employed by him (whether in execution of the contract or otherwise) in every factory, workshop or place occupied or used by him for the execution of the contract, comply with the general conditions required by the Factories Act (1943) and any regulations there under;
- be responsible for the observance of these Conditions by sub-contractors employed in the execution of the contract, and shall notify the procuring entity of the names and addresses of all such sub-contractors;
- recognize the freedom of his employees to be members of trade unions and shall at all times during the continuance of the contract display for the information of his work-people, in every factory, or workshop or place occupied or used by him for the execution of this contract, a copy of this condition; and
- pay all wages earned by work-people directly to them and no to a foreman or any other person supervising or taking part in the operations upon which the work-people are engaged.

2.10 RECORD OF THE PROCUREMENT PROCEEDINGS

2.10.1 MINIMUM STANDARD OF RECORDED INFORMATION

Without prejudice to the method of storage and in accordance with the Financial Administration and Audit Act (FAA Act), the procuring entity shall maintain records of each contract action for a minimum period of ten (10) years. Procurement process and expenditure records, although entrusted to the safeguard of accounting officers, are the property of the Ministry of Finance and Planning and shall promptly be made available to the Ministry upon request in its carrying out of expenditure and/or compliance monitoring mandates. The minimum standards of recorded information are as follows:

- Brief description of the works, goods or services procured;
- Names and addresses of contractors;
- Procurement procedure used and authorization reference;
- Name of successful contractor;
- Date of approval;
- Contract price and actual completion cost;
- Contract duration;
- Information relative to the qualifications of contractors;
- Summary of the evaluation and comparison of quotations and/or tenders;
- Any offsets applied and the corresponding authorization reference pursuant to the Handbook;
- Reason(s) for rejection of any or all quotations/tenders;
- Summary of requests for clarification/verification of bid documents and any modifications thereof;
- Information relative to the successful contractor's performance on the contract; and
- Information relative to complaints, resolution decisions and appeals.

2.10.2 LIMITATIONS OF LIABILITY

GOJ shall incur no external or third party liabilities solely by failure to maintain a record of the procurement proceedings. However, in accordance with the FAA Act, accountable officers may face disciplinary action internal to GOJ if procurement records do not justify procurement expenditure and the Financial Secretary deems proffered explanation(s) to be unsatisfactory.

2.11 REPORTING REQUIREMENTS

2.11.1 NATIONAL CONTRACTS COMMISSION (NCC)

All contracts with a value within the range of J\$4M and above must be reported to the NCC.

2.11.2 MINISTRY OF FINANCE AND PLANNING

The Ministry of Finance and Planning (MFP) monitors procurement expenditure through the maintenance of a Public Sector Procurement Reporting System (PRS). Procuring entities are required, without exception, to report all procurements on a monthly basis using the GOJ standard form PRS-1 (Appendix 1). This information is necessary for effective planning and budgeting processes and facilitates fulfillment of reporting obligations under international trade agreements. The completed PRS-1 shall be sent directly by the procuring entity to MFP, Procurement Policy Implementation Unit, no later than the seven (7) days after the end of the reference period, e.g., MFP shall receive information pertaining to 2000 April 01-30 no later than 2000 May 07. Accounting Officers/Heads of Procuring Entities are accountable for the timely receipt of required information by the MFP.

2.11.3 PORTFOLIO MINISTRY

The Portfolio Ministry, i.e., the Ministry with portfolio responsibility for the procuring entity, shall be apprised of procurements effected by that entity. A copy of the completed PRS-1, referred to in 2.11.2, should also be sent by the procuring entity to the attention of the Accounting Officer/Permanent Secretary in the portfolio Ministry. The portfolio Ministry shall maintain these records in accordance with the FAA Act.

2.12 DISPUTE RESOLUTION

2.12.1 RIGHT TO REVIEW

Any contractor that claims to have suffered, or that may suffer, loss or injury due to a breach under this Handbook by the procuring entity may seek review. Notwithstanding the foregoing, the following shall not be subject to review:

- the selection of a method of procurement; or
- a decision by the procuring entity under Section 2.8 to reject all tenders, proposals, or offers, prior to acceptance.

2.12.2 REVIEW BY PROCURING ENTITY

On receipt of a complaint, the head of the procuring entity shall ensure that the complaint is copied to the Sector or Procurement Committee, as applicable, with responsibility for approval of the award recommendation and shall deal with the complaint in accordance with the procedures set out below.

The complaint shall be received by the procuring entity within twenty (20) days of the date the complainants became aware or the date upon which the complainants should have become aware, whichever is earliest, that the circumstances giving rise to the complaint had occurred.

Unless the procuring entity and the complainant have reached agreement on the resolution of the complaint the head of the procuring entity shall, within fourteen (14) days of receipt of the complaint, issue a written decision to the complainant stating the reasons for the decision and indicating that any appeal of said decision shall be lodged with the NCC within fourteen days of the contractor's receipt of the procuring entity's decision. Appeals shall be addressed to the NCC and copied to the head of the procuring entity. The decision of the procuring entity shall be final unless an appeal has been lodged within the fourteen-day period.

A copy of complaints and resolution decisions shall be maintained in the record of the procurement.

2.12.3 ADMINISTRATIVE APPEAL

A contractor may seek appeal of a decision made by the Head of the Procuring Entity. The contractor's appeal shall be directed to and received, in writing, by the NCC within fourteen (14) days of the contractor's receipt of the procuring entity's decision. The appeal shall contain the complaint addressed to the procuring entity, the procuring entity's decision and the rationale upon which the contractor has relied in determining the validity of the decision to appeal. The NCC shall, within fourteen (14) days of receipt of the appeal request, recommend appropriate resolution a copy of which shall be

communicated to the head of the procuring entity, the contractor and any other person deemed appropriate. Should the procuring entity fail to comply with the recommendation of the NCC, the contractor may institute proceedings under Section 2.12.4. The NCC shall adopt any additional procedures in investigating and recommending resolution in respect of appeals, as far as it considers fair and reasonable in the circumstances.

A copy of appeals and resolution recommendations shall be maintained in the record of the procurement.

2.12.4 JUDICIAL REVIEW

The Courts have jurisdiction over actions pursuant to Section 2.12.4 and petitions for judicial review of decisions made by review bodies, or of the failure of those bodies to make a decision within the prescribed time limits.

SECTION 3 - PROCUREMENT OF CONSTRUCTION WORKS

3.1 CONTRACT VALUE LESS THAN J\$250,000

Where the estimated value is less than J\$250,000.00, participation shall be restricted to domestic concerns only, except where no such qualified concern is registered with the NCC. Opportunities should be offered through limited tender, where procuring entities shall invite three or more appropriately qualified tenderers from the register to participate. Although opportunities offered through limited tender are not generally advertised, procuring entities, may post invitations to tender as described in Section 3.2.

There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering Procedures" for applicable procedures

For routine maintenance, term contracts with agreed rates for definite periods (e.g., one year) may be entered into.

3.2 CONTRACT VALUE FROM J\$250,000 TO LESS THAN J\$1M

Participation opportunities within this contract value range shall be limited to NCC registered domestic contractors only, except where no such qualified contractor is registered with the NCC. Procuring entities shall post invitations as follows:

- At the Parish Council Offices of the Parish or Parishes within which any part of the procurement is to be carried out or delivered;
- At the National Works Agency Parish Offices of the Parish or Parishes within which any part of the procurement is to be carried out or delivered;
- At the Main Parish Post Offices of the Parish or Parishes within which any part of the procurement is to be carried out or delivered;

In addition invitations may be posted as follows:

- At the local or regional offices of the entity carrying out the procurement where such offices exist and are within reasonable proximity to the site or sites where the procurement is to be carried out or delivered;
- At local libraries or works department offices;
- On procuring entity websites;
- Invitations may also be posted (mailed) to all appropriately registered contractors.

There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

3.3 CONTRACT VALUE FROM J\$1M TO LESS THAN J\$4M

Participation opportunities within this contract value range shall be open to all appropriately registered domestic contractors. Procuring entities shall advertise the procurement opportunity as set out in Section 3.2 above, unless the nature and/or complexity of the procurement require national advertising, i.e. publication in daily newspaper, business periodicals or magazines, etc. No tender security is required within this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

3.4 CONTRACT VALUE FROM J\$4M TO LESS THAN J\$15M

Participation opportunities within this contract value range shall be open to all appropriately registered domestic contractors. Procuring entities shall advertise the procurement opportunity in national daily newspapers, or business magazines/periodicals pursuant to the nature and/or complexity of the procurement. All contract award recommendations shall be forwarded to the appropriate National Contracts Commission Sector Committee for approval. See Section 6 "Tendering Procedures" for applicable procedures.

3.5 CONTRACT VALUE FROM J\$15M TO LESS THAN THE INTERNATIONAL CONTRACT VALUE THRESHOLD FOR WORKS

Where the estimated contract value is equal to or greater than J\$15M, but less than the international contract value threshold for works, participation opportunities shall be restricted to NCC registered domestic contractors only, except where no such qualified concern is registered with the NCC. Procuring entities shall advertise the procurement opportunity in national daily newspapers, or business magazines/periodicals pursuant to the nature and/or complexity of the procurement. Opportunities shall be offered through selective tender, where all interested domestic contractors appropriately qualified and registered by the NCC, are afforded the opportunity to tender. A contractor pre-qualification process shall be required for work in excess of J\$150 million. Authority to enter into contract must be obtained from the Cabinet, after reference to the NCC and the portfolio Minister for approval of award recommendation. See Section 6 "Tendering Procedures" for applicable procedures.

3.6 CONTRACT VALUE EQUAL TO OR GREATER THAN THE INTERNATIONAL CONTRACT VALUE THRESHOLD FOR WORKS

Participation opportunities within this contract value range shall be open to both domestic and foreign contractors. Opportunities shall be offered through open tender, with pre-qualification. Procuring entities shall advertise the procurement opportunity in national daily newspapers, or business magazines/periodicals pursuant to the nature and/or complexity of the procurement. A contractor pre-qualification process shall be required for work in excess of J\$150 million. Authority to enter into contract must be obtained from the Cabinet, after reference to the NCC

and the portfolio Minister for approval of award recommendation. See Section 6 “Tendering Procedures” for applicable procedures.

SECTION 4 - PROCUREMENT OF GOODS

4.1 GENERAL

The procuring entity shall first refer to the Government of Jamaica Schedule of Framework Agreements (“Schedule”) for the current period to determine whether the category of good to be procured is covered under agreement in the Schedule. If the item(s) required is/are included in the Schedule, refer to the Schedule for applicable procedures. The following procedures apply to procurement of goods not included in the Schedule.

4.1.1 AWARD EVALUATION CRITERIA

Contract award evaluation criteria for the procurement of goods should be objective, and to the extent practicable, quantifiable, and must be communicated to potential contractors in the invitation to tender. Criteria should include consideration of the following, as applicable:

- Cost of operating, maintaining and repairing the good (life-cycle costs);
- Delivery time/date;
- Functional characteristics of the good;
- Terms of payment;
- Terms of guarantees and warranties;
- Accessibility of after-sales services;
- Availability of spare parts;
- Provision of user training, operating manuals, etc.;
- Provision of volume discounts;
- Extent of local content, including manufacture, labour and materials.

4.2 CONTRACT VALUE LESS THAN J\$250,000

Where the estimated value is less than J\$250,000 goods should be procured by limited tender procedures, in accordance with the nature of the goods desired and the circumstances of the procurement, where tenders may be invited from three or more appropriately qualified contractors that are registered with the NCC. Although opportunities offered through limited tender are not generally advertised, procuring entities may post invitations to tender as described in Section 3.2 herein. There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

Procuring entities may employ offsets, e.g., local manufacture restrictions, within this contract value range.

4.3 CONTRACT VALUE FROM J\$250,000 TO LESS THAN J\$1M

Where the estimated value is equal to or greater than J\$250,000 but less than J\$1M goods should be procured by limited tender procedures, in accordance with the nature of the goods desired and the circumstances of the procurement, where tenders should be invited from a minimum of five appropriately qualified contractors that are registered with the NCC. Although opportunities offered through limited tender are not generally advertised, procuring entities may post invitations to tender as described in Section 3.2 herein. There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

Procuring entities may employ offsets, e.g., local manufacture restrictions, within this contract value range.

4.4 CONTRACT VALUE FROM J\$1M TO LESS THAN J\$4M

Where the estimated value is equal to or greater than J\$1,000,000.00 but less than J\$4,000,000.00 participation opportunities shall be open to all appropriately qualified suppliers that are registered with the NCC. Procuring entities shall advertise the procurement opportunity as set out in Section 3.2 herein, unless the nature and/or complexity of the procurement require national advertising. There is no requirement for contractor provision of tender securities within this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

Procuring entities may employ offsets, e.g., local manufacture restrictions, within this contract value range.

4.5 CONTRACT VALUE FROM J\$4M TO LESS THAN J\$15M

Where the estimated value is equal to or greater than J\$4,000,000.00 but less than J\$15,000,000.00 goods shall be procured on the basis of selective tender by national advertising. Tenders should be invited from all appropriately qualified contractors registered with the NCC. All contracts within this range of values require contractor provision of tender securities and shall be referred to the NCC for review of procuring entities' award recommendation. See Section 6 "Tendering Procedures" for applicable procedures.

Procuring entities may employ offsets, e.g., local manufacture restrictions, within this contract value range.

4.6 CONTRACT VALUE FROM J\$15M TO LESS THAN THE INTERNATIONAL CONTRACT VALUE THRESHOLD FOR GOODS

Where the estimated value is equal to or greater than J\$15,000,000.00 but less than the international contract value threshold for goods these shall be procured on the basis of selective tender by national advertising. Tenders should be invited from all appropriately qualified contractors registered with the NCC. A contractor pre-qualification process shall be required for goods in excess of J\$150 million. Authority to enter into contract must be obtained from the Cabinet, after reference to the NCC for approval of award recommendation. See Section 6 “Tendering Procedures” for applicable procedures.

Procuring entities may employ offsets, e.g., local manufacture restrictions, within this contract value range.

4.7 CONTRACT VALUE EQUAL TO OR GREATER THAN THE INTERNATIONAL CONTRACT VALUE THRESHOLD FOR GOODS

Where the estimated contract value is equal to or greater than the international contract value threshold for goods, goods are procured on the basis of open tender with pre-qualification. Authority to enter into contract must be obtained from the Cabinet, after reference to the NCC and the portfolio Minister for approval of award recommendation. See Section 6 “Tendering Procedures” for applicable procedures.

SECTION 5 - PROCUREMENT OF SERVICES

5.1 GENERAL CONSULTING SERVICES

5.1.1 GENERAL PROCEDURES

The selection process for consultants is based on both quality and cost, i.e., a Quality-Cost-Based Selection (QCBS). QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. The procuring entity shall determine the relative weight given to the quality and cost in each case, pursuant to the nature of the assignment.

5.1.2 THE SELECTION PROCESS

The selection process shall include the following steps:

- preparation of the Terms of Reference (TOR);
- preparation of cost estimate and the budget;
- advertising, pursuant to the contract value guidelines as stated herein for expressions of interest;
- preparation of the short-list of consultants;
- preparation and issuance of the Request for Proposals (RFP);
 - Letter of Invitation (LOI)
 - Information to consultants (ITC)
 - Terms of Reference (TOR)
 - Proposed contract.
- receipt of proposals;
- evaluation of technical proposals: quality considerations;
- evaluation of financial proposal;
- final evaluation of quality and cost; and
- negotiations, approving authorities, and award of the contract to the selected firm.

5.1.2.1 Terms of Reference (TOR)

The procuring entity shall prepare TOR that clearly define the objectives, goals, and scope of the engagement and provide any relevant background information (e.g., a listing of available reports and basic data) to facilitate the consultants' preparation of their proposals. If training and/or the transfer of technology is an objective, it should be specifically outlined along with details of number of staff to be trained, etc. to enable consultants to estimate required resources. TOR shall list the duration, timing and content of the expected outputs (deliverables). However, it should not be inflexible, so that competing consultants may propose their own methodology and staffing. Procuring entity and consultant responsibilities shall be clearly defined in the TOR.

5.1.2.2 Cost Estimate (Budget)

The procuring entity shall prepare a cost estimate based on its assessment of the resources needed to carry out the engagement, i.e., staff time, logistical support, and physical inputs (e.g., vehicles, equipment, etc.).

5.1.2.3 Advertising Guidelines

Under J\$4 Million

Advertising not required. Procuring entities should invite proposals from a minimum of three (3) appropriately qualified consultants registered with the NCC. Participation shall be restricted to domestic consultants only, except where no such qualified consultant is registered with the NCC.

From J\$4M to less than J\$15 Million

Advertise in a national newspaper. Participation shall be restricted to domestic consultants only, except where no such qualified consultant is registered with the NCC.

From \$15 Million to less than the International Contract Value Threshold for Services

Advertise in a national newspaper. Participation shall be restricted to domestic consultants only, except where no such qualified consultant is registered with the NCC.

Equal to or greater than the International Contract Value Threshold for Services

Advertise in a national newspaper. Participation shall be open to all domestic and foreign consultants who are appropriately qualified. Procuring entities should seek to employ offsets, such as domestic content requirements, as far as practicable.

5.1.2.4 Minimum Content of the Notice Seeking Expressions of Interest

The notice must contain, as a minimum, the following:

- Selection Criteria
- The name and address of the procuring entity;
- A brief description of the services to be procured;
- General requirements, e.g., NCC registration, tax compliance, etc.

5.1.2.5 Selection Criteria for Short-List of Consultants

The procuring entity shall give consideration only to those firms expressing interest that possess the required qualifications. Short-lists shall comprise three to six firms, and at least one local firm, unless interested qualified local firms are not identifiable. Selection criteria shall include only those as stated in the notice seeking expressions of interest. Firms that expressed interest, as well as any other firm that specifically so requests, shall be provided the final short list of firms.

In the interest of national development, the short list may comprise entirely national consultants (firms with majority national ownership and registered or incorporated in Jamaica) if the assignment is valued at less than the international contract value for services, and a sufficient number of qualified firms are available.

5.1.2.6 Preparation and Issuance of the Request for Proposals (RFP)

The RFP shall contain: (a) a letter of invitation (LOI); (b) information to consultants (ITC); (c) the terms of reference (TOR); and (d) the proposed contract.

(a) Letter of Invitation (LOI)

The LOI shall state the intention of the procuring entity to enter into a contract for the provision of consulting services, the source of funds, the name and address of the procuring entity, and the date, time and address for submission of proposals.

(b) Information to Consultants (ITC)

The ITC shall contain all the necessary information that would assist consultants to prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process, indicating the evaluation criteria, their relative weights, and the minimum passing quality score. The ITC shall not indicate the budget (since cost may also be a selection criterion), but shall indicate the expected input of key professionals (staff time), where applicable. Consultants shall, however, be free to prepare their own estimates of staff time necessary to carry out the engagement. The ITC

shall specify the proposal validity period (usually between 60-90 days). A detailed list of the information to be included in the ITC is as follows:

- a brief description of the assignment;
- standard formats for the technical and financial proposals;
- the names and contact information of officials to whom clarification requests shall be directed;
- details of the selection procedure to be followed, including: (I) a description of the two-stage process, if appropriate; (ii) a listing of the technical evaluation criteria and weights to be accorded to each criterion; (iii) the details of the financial evaluation; (iv) the relative weights for quality and cost in the case of QCBS; (v) the minimum pass score for the technical proposal; and (vi) the details on the public opening of financial proposals;
- an estimate of the level of key staff inputs (in staff-weeks or months) required of the consultants; and indication of minimum experience, academic achievement, etc., for key staff;
- details and status of any external financing;
- information on negotiations and financial and other information that shall be required of the selected firm during negotiation of the contract;
- the deadline for submission of proposals;
- currency (ies) in which the costs of services shall be expressed, compared and paid, including a statement that applicable rates of exchange shall be the prevailing Bank of Jamaica rate on the date of opening of the financial proposals;
- reference to any local laws that may be particularly relevant to the proposed consultants' contract;
- a statement that the firm/individual shall be disqualified from providing downstream goods, works or services under this project if such activities, in the procuring entity's judgment, constitute a conflict of interest with the services provided under this engagement;
- the method in which the proposal shall be submitted, including the requirement that technical proposals and price proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation is not influenced by price;
- a request that the invited firm (i) acknowledges receipt of the RFP and (ii) informs the procuring entity whether or not it will be submitting a proposal;
- the short list of consultants being invited to submit proposals;
- the proposal validity period (60 – 90 days), and a statement that during this period the consultant shall undertake to maintain, without change, the proposed key staff, and shall hold to both the rates and total price proposed;
- the right of the consultants, in the case of an extension of the validity period, to not maintain their proposal;

- the anticipated date on which the selected consultant shall be expected to commence the assignment;
- the anticipated duration (if known);
- a statement indicating in the case of foreign consultants (i) whether or not the consultants' contract and personnel shall be tax-free; if not a detail of the likely tax obligations or the location where this information may be obtained;
- if not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the procuring entity;
- phasing of the assignment, if appropriate, and the likelihood of follow-up assignments;
- the procedure to handle clarifications about the information given in the RFP; and
- any conditions for subcontracting part of this assignment, particularly in favour of local consultants.

(c) Terms of Reference (TOR). See Section 5.1.2.1 herein

(d) Contract

The procuring entity shall use the applicable GOJ Standard Contract with minimum changes as necessary to address the specific requirements of the engagement. See Appendix 2 for further details.

5.1.2.7 Clarification / Modification of the RFP

Consultants or service providers may request clarification of the information contained in the RFP from the procuring entity. All such requests shall be submitted to the procuring entity in writing. The procuring entity shall respond to any request for clarification within seven (7) days of receipt of the request. Responses shall be communicated promptly to all consultants to whom the procuring entity has provided the solicitation documents, without identifying the source of the query or clarification request.

At any time prior to the deadline for submission of proposals, the procuring entity may for any reason, whether on its own initiative or as a result of a request for clarification, modify the solicitation documents by issuing an addendum. The addendum shall be communicated promptly to all consultants to whom the procuring entity has provided the solicitation documents and shall be binding upon them.

If the procuring entity convenes a meeting of consultants for provision of responses to clarification requests, it shall prepare minutes of the meeting containing the requests submitted and its responses to those requests, without identifying the source of the requests. The minutes shall be provided to participating consultants within five (5) days of the meeting date, so as to enable them to take the minutes into account in preparation of their proposals for submission.

5.1.2.8 Receipt of Proposals

The procuring entity shall allow sufficient time for consultants to prepare effective proposals, in accordance with the complexity of the engagement. The time allowed shall not be less than four weeks, except where the engagement is considered, in the judgment of the procuring entity, to be of minimal complexity. In such circumstances, the procuring entity may reduce the time allowed to less than four weeks commensurate with the relative simplicity of the assignment, but in no case less than two weeks. Conversely, the time allowed shall not exceed eight weeks, except where the engagement is considered, in the judgment of the procuring entity, to be exceptionally complex. In such circumstances, the procuring entity may increase the maximum time allowed to more than eight weeks commensurate with the relative complexity of the assignment, but in no case more than sixteen weeks.

The technical and financial proposals shall be submitted at the same time and no amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical envelopes shall be opened by the Procurement Committee, or an Evaluation Committee convened for this purpose, as soon as possible after the closing time for submission of proposals.

Consultants submitting proposals may attend the opening of the technical proposals if they so desire. However, the financial proposals shall remain sealed until the evaluation of the technical proposals is complete. Any proposal received after the closing time for submission of proposals shall be returned unopened.

5.1.2.9 Evaluation of Technical Proposals: Quality Considerations

The Evaluation Committee shall carry out the evaluation of proposals in two stages: first the technical (quality), and then the cost. Evaluators of the technical proposals shall not have access to the financial proposals until the technical evaluation is concluded.

The Evaluation Committee shall evaluate each technical proposal, taking into account the following criteria, as stated in the ITC:

- the consultants' relevant experience for the assignment;
- the quality of the methodology proposed;
- the qualifications of the key staff proposed;
- the extent of participation of local consultants among key staff in the performance of this assignment.

Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The general rule is that more weight should be accorded to the more significant criteria, pursuant to the nature of the procuring entity's need(s). The following weights are indicative and may be adjusted for specific circumstances.

Consultant's specific experience

5 to 10 points

Methodology	20 to 50 points
Key personnel	30 to 60 points
Transfer of Knowledge	0 to 10 points
Participation by Nationals	<u>0 to 10 points</u>
Total	100 points

The evaluation committee may further divide these criteria into sub-criteria, as necessary, pursuant to the nature of the engagement. For example, sub-criteria under methodology might be innovation and level of detail. The number of sub-criteria should be kept to the essential. The weight given to experience can be relatively modest since this criterion is already addressed in short-listing the consultant. More weight should be given to the methodology in the case of complex assignments.

Evaluation of only the key personnel is recommended as the key personnel will ultimately determine the quality of performance. Curriculum Vitae of key personnel included in consultants' proposals shall be signed by an authorized officer of the firm and by the individual proposed.

Key personnel shall be rated pursuant to the following three sub-criteria, as relevant to the task for which they have been proposed:

- general qualifications: general education and training; length of experience, positions held, time with consulting firm as staff, etc.
- adequacy for the particular assignment: education, training, experience in the specific sector, etc.; and
- experience in the Jamaica/Caribbean region: knowledge of the local language, culture, administrative system, government, etc.

The Evaluation committee shall evaluate each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered non-responsive and rejected at this stage if it does not substantially satisfy the TOR or if it fails to achieve the minimum technical score specified in the RFP.

At the end of this process, the evaluation committee shall prepare an evaluation report of the quality of the proposals. The report shall substantiate the results of the evaluation, including the relative strengths and weaknesses of the proposals. All evaluation records shall be retained pursuant to Section 2.10.1 herein.

5.1.2.10 Evaluation of Financial Proposals: Cost Considerations

After the evaluation of quality is completed, the procuring entity shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered to be non-responsive to the RFP and TOR, indicating that their unopened financial proposals should be collected.

Procuring entities may follow one of two options for the evaluation of financial proposals.

OPTION 1:

The evaluation committee shall open the financial proposals of those firms that have passed the technical evaluation.

The evaluation committee shall then review the financial proposals and correct any arithmetical errors. For the purpose of comparing proposals, the costs shall be converted to a single currency (\$J or \$US), as stated in the RFP. The proposal with the lowest cost may be given a score of 100 and other proposals given financial scores that are inversely proportional to their prices.

The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The weighting shall also depend on the degree of innovation sought by the procuring entity. Where, however, unusual approaches are sought, for instance to provide designs for a building of a type that is seldom required or where a wide variety of design solutions may exist, then the technical quality of the proposals should be accorded more importance. The greater the intellectual input required the more the evaluation should be weighted towards technical excellence. As a general rule, the weighting for cost should normally not exceed 30 points out of a total score of 100. The proposed weightings for quality and cost shall be specified in the RFP. The consultant obtaining the highest total score shall be invited for negotiations.

Where the estimated value of the contract is equal to or above J\$4M, the approval of the NCC and/or Cabinet, pursuant to Section 2.3 herein, shall be sought by the procuring entity. If negotiations fail, then open the financial proposal of the second highest technical scorer, and so on.

OPTION 2:

The Evaluation Committee shall open the financial proposal of the highest scored technical proposal only, review and correct any arithmetical errors. Any financial proposal that is not submitted in accordance with requirements as stated in the ITC shall be rejected and returned along with the corresponding technical proposal to the consultant with a notice indicating the reason(s) for return of the documents. The consultant obtaining the highest technical score shall be invited for negotiations.

Negotiations shall include discussions of the TOR, methodology, staffing, procuring entity inputs and any special conditions of contract. These discussions shall not substantially alter the original TOR or the terms of contract. The final TOR and agreed methodology shall be incorporated in the final contract document.

The selected consultant shall not be allowed to substitute key staff without the prior written permission of the procuring entity, in which case, the personnel proposed for substitution shall be equally or better qualified than the key personnel initially proposed. If the negotiations fail to result in an acceptable contract, the procuring entity shall terminate the negotiations and invite the next ranked consultant for negotiations. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations have commenced with the next ranked firm, the procuring entity shall not re-open the earlier negotiations. After negotiations are successfully completed, the procuring entity shall promptly notify other firms on the short list that they were unsuccessful, returning unopened financial proposals.

Where the estimated value of the contract is equal to or above J\$4M, the approval of the NCC and/or Cabinet, pursuant to Section 2.3 herein, shall be sought by the procuring entity. If negotiations fail, then open the financial proposal of the second highest technical scorer, and so on.

5.2 PROFESSIONAL INDEMNITY INSURANCE

Professional indemnity insurance should be required whenever the circumstances of the project deem this to be necessary. The cost for this will be a reimbursable expense.

5.3 OTHER SERVICES

5.3.1 GENERAL

The procuring entity shall first refer to the Government of Jamaica Schedule of Framework Agreements (“Schedule”) for the current period to determine whether the service to be procured is covered under agreement in the Schedule. If the service required is included, refer to the Schedule for applicable procedures. The following procedures apply to services that are not included in the Schedule.

5.3.2 CONTRACT VALUE UNDER J\$250,000

Where the estimated contract value is less than J\$250,000, participation shall be restricted to domestic concerns only, except where no such qualified concern is registered with the NCC. Opportunities should be offered through limited tender, where procuring entities may invite three or more appropriately qualified contractors that are registered with the NCC to participate. Although opportunities offered through limited tender are not generally advertised, procuring entities may post invitations to tender as described in Section 3.2 herein. There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering procedures" for applicable procedures.

5.3.3 CONTRACT VALUE FROM J\$250,000 TO LESS THAN J\$1M

Where the estimated contract value is equal to or greater than J\$250,000 but less than J\$1M, participation shall be restricted to domestic concerns only, except where no such qualified concern is registered with the NCC. Opportunities shall be offered through limited tender, where a minimum of five tenders should be invited from appropriately qualified contractors that are registered with the NCC. Although opportunities offered through limited tender are not generally advertised, procuring entities may post invitations to tender as described in Section 3.2 herein. There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

5.3.4 CONTRACT VALUE FROM J\$1M TO LESS THAN J\$4M

Where the estimated value is equal to or greater than J\$1M but less than J\$4M, participation shall be restricted to domestic concerns only, except where no such qualified concern is registered with the NCC. Participation opportunities shall be open to all appropriately qualified suppliers that are registered with the NCC. Procuring entities shall advertise the procurement opportunity as set out in Section 3.2 herein, unless the nature and/or complexity of the procurement require national advertising. There is no requirement for provision of a tender security in this contract value range. See Section 6 "Tendering Procedures" for applicable procedures.

5.3.5 CONTRACT VALUE FROM J\$4M TO LESS THAN J\$15M

Where the estimated value is equal to or greater than J\$4M but less than J\$15M, participation shall be restricted to domestic concerns only, except where no such qualified concern is registered with the NCC. Opportunities should be offered through selective tender by national advertising, where all interested appropriately qualified contractors who are registered with the NCC are afforded the opportunity to tender. All contracts within this range of values shall be referred to the NCC for approval of recommendation for award. See Section 6 “Tendering Procedures” for applicable procedures.

5.3.6 CONTRACT VALUE FROM J\$15M TO LESS THAN THE INTERNATIONAL CONTRACT VALUE THRESHOLD FOR SERVICES

Where the estimated value is equal to or greater than J\$15,000,000.00 but less than the international contract value threshold for services, participation shall be restricted to domestic concerns only, except where no such qualified concern is registered with the NCC. Services shall be procured on the basis of selective tender, where all contractors who are registered with the NCC are afforded the opportunity to tender. Authority to enter into a contract shall be obtained from the Cabinet, after reference to the NCC and the Minister for approval of award recommendation. See Section 6 “Tendering Procedures” for applicable procedures.

5.3.7 CONTRACT VALUE EQUAL TO OR GREATER THAN THE INTERNATIONAL CONTRACT VALUE THRESHOLD FOR SERVICES

Where the estimated contract value is equal to or greater than the international contract value threshold for services, participation opportunities shall be open to both domestic and foreign concerns. Opportunities shall be offered through open tender with pre-qualification. Authority to enter into contract must be obtained from the Cabinet, after reference to the NCC and the portfolio Minister for approval of award recommendation. See Section 6 “Tendering Procedures” for applicable procedures.

Procuring entities may employ offsets, e.g., percentage local manufacture or labour content requirements, within this contract value range.

SECTION 6 - TENDERING PROCEDURES

6.1 TENDER DOCUMENTS

Procuring entities shall ensure that tender documents contain all the necessary information for the particular procurement. The minimum information that must be included, together with guidance notes, is listed in the paragraphs that follow. The level of detail required will depend on the value and complexity of the procurement. For the simpler and smaller procurements the documentation will be reduced although all the points listed below should be considered.

6.1.1 DESCRIPTION OF THE WORKS, GOODS AND/OR SERVICES

A description of the works to be carried out, goods to be delivered or services to be performed should be inserted. The description may be brief provided the work required is described in detail elsewhere in the documents. The location or locations at which work is to be carried out or goods or services delivered should be stated.

6.1.1.1 Reference to Specific Indicators

There should be no requirement or reference to a particular trademark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the goods, or standard of quality of the works or services to be procured and provided that words such as "equivalent" are included.

6.1.1.2 Metrication Requirement

Pursuant to the provisions of the Weights and Measures Act (1976) and the Weights and Measures (Conversion of Unit of Measurement Order) (1998), metric units of measurement must be used in the procurement of works, goods and services.

6.1.2 SOURCE OF FUNDS

The source of funds should be stated and where applicable a detailed statement of the type and conditions of any loan should be included.

6.1.3 ELIGIBILITY REQUIREMENTS

Where participation is restricted in any way this should be clearly stated. An NCC list of approved contractors should be referred to and where applicable the means by which pre-qualification of tenderers is to be carried out should be described.

In addition there may be GOJ or external funding agency conditions, where tenderers, equipment and goods which are to be permanently incorporated into the project and services required for the execution of the project, should have their origin locally or in other specified countries. Eligibility requirements must be incorporated in the tender documents.

6.1.4 CONTRACTOR PRE-QUALIFICATION

As a general rule, where contractors are to be pre-qualified this should be carried out before they are invited to tender. However, it is sometimes necessary to pre-qualify contractors at the same time that they are invited to tender, e.g., owing to the urgent nature of a particular procurement. In such cases, the “two-envelope” method may be used. The objective, at all times, is to pre-qualify contractors before examining their tenders or proposals.

6.1.4.1 Pre-qualification Before Tender

This is the preferred method and time should be allowed in planning any procurement where pre-qualification is to be employed. Advertisements stating that the procuring entity intends to pre-qualify contractors for a particular project should be inserted in accordance with these rules. All contractors responding to the advertisements should receive pre-qualification questionnaires.

Questionnaires should include full instructions as to how the forms are to be completed. The marking scheme to be used to assess pre-qualification questionnaires should be set out in the document with the number of points to be allocated to each section clearly stated.

Once the pre-qualification has been carried out, all contractors that indicated interest should be informed whether they have been successful. Unsuccessful contractors should be informed of the reasons for their not being pre-qualified.

6.1.4.2 The Two Envelope System

Where it is necessary to pre-qualify contractors at the same time as inviting tenders, the tender documents should include the full pre-qualification documents together with a guide as to how the documents are to be assessed.

When tenders are received, the pre-qualification document should be inside of the outer envelope. This envelope should be opened and the pre-qualification exercise carried out before opening the inner envelope that will contain the tenders.

It will be seen that that the system requires contractors to compile tenders without any guarantee that their tenders will even be considered. For this reason, this method should be used only when absolutely necessary because of a lack of sufficient time.

The procuring entity should inform contractors that fail to pre-qualify of the reasons for their failure.

6.1.5 COST OF TENDERING

It should be clearly stated that tenderers shall bear all costs associated with the preparation and submission of their tenders and that the procuring entity will in no case be responsible or liable for those costs, regardless of the outcome of the tendering process.

6.1.6 LANGUAGE OF TENDERING

Tenders documents should include a statement that tenders are to be prepared and submitted in the English Language.

6.1.7 SITE VISIT

Where it is considered necessary or beneficial tenderers should be advised to visit and examine the site of the works or place of delivery of the goods or services. It should also be made clear that the tenderer is assumed to be obtaining for itself and at its own responsibility, all information that may be necessary for preparing the tender and entering into a contract. A note that the costs of visiting the site shall be at the tenderer's own expense should be inserted.

A note should also be attached stating that the procuring entity and GOJ, in granting permission to tenderers to visit the site, take no responsibility in respect of personal injury, loss of or damage to property and any other loss however caused, which might be seen to be a result of the exercise of such permission.

6.1.8 TENDER DOCUMENTS

A detailed list of the sections of the tender documents should be included. Normally the documents should be laid out as follows:

- Instructions to Tenderers;
- Form of Tender and Appendix;
- Form of Tender Bond;
- Form of Tender Bank Guarantee;
- General Conditions of Contract (GCC);
- Special Conditions of Contract (SCC);
- Technical Specifications;
- Drawings where applicable;
- Bills of Quantities or Schedule of Items;
- Bills of Quantities or Schedule of Items Summary;
- Dayworks Schedule (if applicable);

- Schedules of Basic Prices (if applicable);
- Form of Agreement;
- Form of Performance Bond;
- Form of Performance Bank Guarantee;
- Form of Advance Payment Bond (if applicable); and
- Form of Advance Payment Bank Guarantee (if applicable);
- Workload at time of tender..

6.1.9 CLARIFICATION OF TENDER DOCUMENTS

The method by which tenderers may obtain clarification of the tender documents should be set out in detail. The basic requirements that should be addressed are as follows.

Acceptable methods (e.g. telex, in writing, e-mail etc.) by which tenderers may seek clarification should be stated. Telephone queries are not acceptable

The exact mail or electronic address to which clarification queries are to be addressed should be stated.

The time period in relation to the end of the tender period during which clarification queries will be accepted.

It should be stated that all queries will be answered (without attributing the query to any tenderer) to all tenderers.

It should be stated that any explanation or information given by or alleged to be given by any officer of the procuring entity otherwise than in accordance with the above paragraphs will have no contractual validity.

6.1.10 AMENDMENT OF TENDER DOCUMENTS

It should be stated that at any time prior to the deadline for submission of tenders, the procuring entity may, whether in response to a clarification request or for any other reason, amend the tender documents by issuing an addendum. It should be stated that where it becomes necessary, the procuring entity may extend the deadline for submission of tenders. Any addenda or extended deadlines so issued, form part of the tender documents and are binding upon tenderers.

Some means of ensuring that all tenderers have received the amendment should be included.

6.1.11 PREPARATION OF TENDER

A statement as to the basis of the pricing of the tender should be inserted. The methods of dealing with local taxation (e.g., import duties, general consumption tax, contractor's levy, etc.) should be clearly stated.

A list of the sections of the documents that are to be completed by the contractor and the method of doing so (e.g. “in ink”) should be stated.

A statement should describe the way in which insertions or erasures shall be dealt with.

Where any additional information is to be submitted (e.g. a programme or resources lists) this should be stated here.

6.1.12 TENDER PRICES

The requirement to price all items in the tender should be set out together with a statement of the means to be adopted to deal with items not priced. The basis of pricing, particularly which resources (labour, materials, plant, overheads, etc.) are to be included in various items, should be stated).

Where the rates and prices quoted by the tenderer are subject to adjustment during the performance of the contract in accordance with fluctuations provisions in the Conditions of Contract this should be stated here.

The currencies in which the tender may be compiled together with the means to be employed in evaluating tenders submitted in different currencies should be stated.

6.1.13 ADVANCE PAYMENTS

Where advance payments are offered the amounts and terms under which the advances will be made and recovered should be stated. In all cases advances must be fully secured. In the case of mobilization payments it is normal to allow a grace period of up to one quarter of the contract period and a requirement that the whole advance must be recovered before commencement of the third quarter of the contract period.

6.1.14 TENDER VALIDITY

The period during which tenders are to remain valid and in effect should be stated. The means of obtaining an extension of this period together with extension of a tender security should be set out if this is felt to be necessary.

6.1.15 TENDER SECURITY

When the estimated contract value exceeds J\$4M, a note should state that all tenders must be accompanied by a tender security in the forms and amounts prescribed in the tender documents.

The amount of the security should be a fixed sum that may be calculated as a percentage of the estimated value. The percentage to be used will normally fall in the range between 1% and 2% of the estimated value of the contract.

The events that will release the tender security should be listed. The situations in which a security will be forfeit should be detailed.

It should be noted that where tender security is required, any tender not accompanied by a valid security will be rejected as non-responsive.

6.1.16 SIGNING OF TENDER

The requirements for signing the tender should be explicitly stated.

6.1.17 TENDER SUBMISSIONS

The detailed requirements for packaging of tenders should be set out. The following points should be considered.

The outer envelope or packaging should identify the tender subject, the name and address of the Procuring Entity and the date of opening but not the identity of the tenderer.

The precise location of the tender box or other arrangement together with the functional title of the officer responsible for receiving tenders should be stated.

A statement that the procuring entity will take no responsibility for tenders misplaced or prematurely opened if the instructions are not precisely followed should be included. It should be noted that a premature opening may result in the bid being rejected.

6.1.18 DEADLINE FOR SUBMISSION OF TENDERS

The deadline should be stated with the date and time clearly identifiable.

A note should be included stating that the procuring entity may, at its discretion, extend the deadline for the submission of tenders in which case all rights and obligations of the procuring entity and the tenderers subject to the previous deadline shall thereafter be subject to the extended deadline.

6.1.19 LATE TENDERS

A note should state that any tender presented to the procuring entity after the prescribed deadline for the submission of tenders will be not be accepted.

6.1.20 MODIFICATION AND WITHDRAWAL OF TENDERS

A note should state that tenderers may modify or withdraw their tenders after tender submission provided that written notice of the modification or withdrawal is received by the procuring entity prior to the prescribed deadline for submission of tenders.

The requirements for the submission of modifications, adjustments or withdrawals should be stated as being the same as for tender submissions.

6.1.21 TENDER OPENING

The location and time at which tenders will be opened should be stated. Normally this should be as soon after the time for tender closing as possible. Tender openings should allow representatives of the tenderers to be present, and may be public. To this end, the invitation to tenders should contain an invitation to those who have tendered to be present at the tender opening. The opening committee shall comprise a minimum of three public officers.

A record of tender opening containing the relevant information shall be prepared and signed by all those present. The standard form "Tender Receival Form" (Appendix 1) should be used. The Receival Form shall be signed by all members of the opening committee and by representatives of the tenderers present at the opening.

The information to be read out and recorded at the opening should be stated. For each tender, a minimum of the tenderer's name, total amount of tenders, tender price, modification and tender withdrawal, if any, and the presence of the requisite tender security and Tax Compliance Certificate (TCC) will be announced and recorded at the tender opening.

6.1.22 DETERMINATION OF RESPONSIVENESS

The method of establishing whether tenders are responsive should be described in the tender document.

6.1.23 CORRECTION OF ERRORS

The method by which arithmetic errors are to be dealt with should be set out in detail.

6.1.24 CLARIFICATION OF TENDERS

It should be stated that the procuring entity may ask tenderers for clarification of their tenders in writing, cable, telex, fax or e-mail, but no change in the price or substance of the tender shall be sought, offered or permitted.

6.1.25 EVALUATION AND COMPARISON OF TENDERS

The method of evaluation should be detailed here. The responsiveness of tenders will be determined during the evaluation. The currency in which price comparisons will be made should be stated, where relevant. The contract award criterion shall be the lowest evaluated tender.

6.1.26 ALTERNATIVE TENDERS

A statement as to whether alternative tenders will be accepted should be inserted. If alternative tenders are to be accepted a note should state that a fully responsive tender must accompany all alternative tenders.

6.1.27 AWARD CRITERIA

It should be stated that the procuring entity will award the contract to the tenderer whose tender is evaluated as the lowest responsive tender. The criteria by which the tender will be evaluated shall be stated.

6.1.28 GOJ RIGHT TO REJECT ANY OR ALL TENDERS

A statement shall be included stating that the procuring entity reserves the right to accept or reject any tender, or to annul the tendering process and reject all tenders at any time prior to the award of contract without thereby incurring any liability.

6.1.29 NOTIFICATION OF AWARD

It shall be stated that the procuring entity will, no later than the expiration of the prescribed tender validity period, notify the successful tenderer in writing that its tender has been accepted and that this acceptance will constitute the formation of the contract.

It shall be stated that, when the successful tenderer has furnished the documents required in the acceptance letter (usually the performance bond, insurances etc.), the procuring entity will promptly notify unsuccessful tenderers that their tenders have been unsuccessful and will return their tender securities.

6.1.30 PERFORMANCE SECURITY

Where performance sureties are required the period within which they are to be submitted should be stated. It should also be stated that failure to provide the required performance security within the required period will be grounds for forfeiture of the tender security and contract award.

6.1.31 SIGNING OF CONTRACT

It should be stated that, following completion of all the requirements of the acceptance letter the procuring entity will arrange with the successful tenderer to sign the Form of Agreement prescribed in the tender documents.

6.1.32 TAX COMPLIANCE CERTIFICATES

It should be stated that, if a tenderer fails to submit a valid Tax Compliance Certificate with his tender, the tender will be rejected except where the requirement is specifically waived.

6.1.33 ADVANCE PAYMENTS

Where advance payments are to be made, these will only be allowed upon presentation of an advance payment security. No advance payment shall be made without provision of a surety in the full value of the advance.

6.1.34 INSTRUCTIONS TO TENDERERS

A section at the front of the tender documents entitled “Instructions to Tenderers” should be included showing how the above issues will be dealt with in the tender process.

6.2 CONTRACT DOCUMENTS

6.2.1 GENERAL

All contract documents must cover certain minimum possibilities. Both parties to the contract should be able to clearly see what are their rights and obligations.

There may also be specific events that are likely or expected to occur during the performance of a particular contract that would have to be covered in the contract documents for that procurement.

All contracts where standard forms are used should contain an appendix or similar arrangement where variables particular to the contract may be conveniently inserted.

6.2.2 MATTERS TO BE COVERED BY DOCUMENTS

All Contract Documents shall contain as a minimum the terms and conditions listed below:

6.2.2.1 Contract Sum

The Contract Sum or a detailed means of arriving at a Contract Sum must be included.

6.2.2.2 Description of the Works, Goods or Services

A detailed description of the works to be carried out, goods to be delivered or services to be supplied should be inserted. For works or supply of goods or materials contracts, a detailed Specification and Bill of Quantities or Schedule of Quantities should be provided. For Service Contracts a detailed Terms of Reference should be provided.

6.2.2.3 Location of the Works, Goods or Services

The location or locations at which work is to be carried out or goods or services delivered should be stated.

6.2.2.4 Contract Period

The period during which the works are to be executed or the goods or services delivered should be stated.

6.2.2.5 Arrangements when Delivery is Late

The arrangements for the procuring entity to be compensated where the contractor delivers late should be covered in the conditions. These arrangements may include liquidated and ascertained damages, extensions of time, etc.

6.2.2.6 Arrangements when Delivery is not in Accordance with the Description of Works, Goods or Services

A means of ascertaining when delivery of the contract is not in accordance with the Description of Works, Goods or Services should be included (e.g., inspection by a third party, tests and samples). The action to be taken when delivery is not in accordance with these Descriptions should be set out clearly in the contract.

6.2.2.7 Termination of Contract

The situations where one party may terminate the contract and what would be the rights and obligations of the parties in the event of termination should be clearly described.

6.2.2.8 Source of Funds

The source of funding should be stated where the method of financing impinges on the contractual positions of the parties and this should be covered in the contract.

6.2.2.9 Language of Contract

The language of the Contract shall be stated (normally English).

6.2.2.10 Site Visit

Tenderers should normally be made responsible for visiting the site of the works or delivery and obtaining, on their own behalf, information concerning the effect on the execution of the contract.

6.2.2.11 Programme

Where appropriate a programme should be required to be submitted by the Contractor. The format or method of calculation of the programme should be defined in the documents.

6.2.2.12 Contract Prices

The resource inputs (i.e., labour, materials, plant, overhead costs, etc.) required to be included in the prices of individual items should be listed.

Where the rates and prices quoted by the tenderer are subject to adjustment during the performance of the contract in accordance with fluctuations provisions in the Conditions of Contract, this should be stated here.

The currencies in which the contract is to be priced should be stated.

6.2.2.13 Advance Payments

Where advance payments are offered the amounts and terms under which the advances will be made and recovered must be stated. Normally the advance should be recovered by installments by deduction from interim payments.

Advance payments for mobilization should not exceed 10% of the Contract Sum or such other amounts that may be stipulated by Cabinet. The procuring entity may allow the total of such advance payments to the amount of 15% of the Contract Sum where a large proportion of the contract sum is represented by the value of the work of nominated subcontractors. It is normal to allow a grace period of up to one quarter of the contract period and a requirement that the whole advance will be recovered before the third quarter of the contract.

All advance payments offered under contracts must be completely guaranteed by an advance payment security.

6.2.2.14 Correction of Errors

The method by which arithmetic errors have been or will be dealt with should be set out in detail.

6.2.2.15 Performance Security

Where performance sureties are required the amount should be stated and the format of the surety should be clearly set out in the documents. It should be made clear that it is a fundamental breach of contract if the surety proves to be unacceptable to the procuring entity or not properly in force.

Performance securities in the sum of 10% of the Contract Sum should be required under all contracts over the value of J\$4M. The amount of surety required for contracts over J\$100M may be increased where circumstances warrant. Such securities shall be in the form either of a performance bond or a performance guarantee.

6.2.2.16 Tax Compliance Certificates

A clause should state that, the tenderer shall maintain a valid Tax Compliance Certificate, for the duration of the contract.

6.2.2.17 Contractor's Levy

A clause should state that a contractor's levy in the amount of 2% is to be deducted from all payments by the procuring entity, in accordance with the Contractor's Levy Act.

6.2.2.18 Dispute Resolution

All contracts should contain detailed methods of dispute resolution whereby disputes may be adjudicated, mediated or arbitrated in order to settle disputes in a timely manner.

6.3 APPROPRIATE CONTRACTS FOR VARIOUS TYPES OF PROCUREMENT

6.3.1 WORKS CONTRACTS

For works contracts valued at and above J\$4M the following Standard Forms of Contract are recommended:

Works of a character predominantly:

- Building - JCC Form
- Civil Engineering - FIDIC Form

Providing either of these standard forms is properly completed and amended the general requirements of Section 3 will be covered. In both cases the most recent form should be used.

6.3.2 SERVICE CONTRACTS

Sample contracts for services, including consulting services are included at Appendix 2 .

6.3.3 GOODS CONTRACTS

A sample contract for the procurement of goods is included at Appendix 2.

6.4 SPECIAL CONDITIONS TO BE INCLUDED

6.4.1 FLUCTUATIONS CLAUSES

All contracts with a duration of over six months and/or of a value equal to or greater than J\$15M should normally contain a means of dealing with inflationary increases in labour, materials, taxes and other factors of cost.

GOJ encourages the use of Formula or Index methods of adjusting prices for inflation. However where the use of Formula or Index methods is not possible a mechanism whereby basic prices of the various specifically listed and priced cost factors may be employed. In this case it must be made abundantly clear to tenderers in the “Instructions to Tenderers” and in the Conditions of Contract that only items listed in the Basic Price Lists will be eligible for adjustment owing to changes in price.

6.5 PRE-TENDER ACTIONS

6.5.1 APPOINTMENT OF PROCUREMENT PLANNER

Pre-tender actions are directed towards ensuring that the maximum reasonable number of suitably qualified tenderers is invited to tender and that the pre-tender period is properly documented.

A Procurement Planner should be appointed to carry out the procedures required for obtaining tenders. It is recommended that this officer deal with all aspects of the tender to avoid any contradictory or inaccurate information being given to tenderers.

6.5.2 ADVERTISEMENTS

As a general rule, for procurements with an estimated value of J\$250,000.00 and above a formal invitation to tender must be advertised. Exceptions would be where limited tendering, or competitive negotiations have been approved.

6.5.2.1 National Advertisement

Procuring entities should place advertisements in the largest circulation national newspaper on the Saturday and Wednesday of a week such that the day of first insertion shall precede the date on which tender documents are to be made available to tenderers.

6.5.2.2 International Advertisement

International advertisement may be required as a condition of a funding agency, unavailability of qualified domestic contractors, etc. The choice of magazines or other periodicals for placement of advertisements should be made on a case-by-case basis. In cases where the funding agency requires international advertising, the particular magazine will be specified (e.g. for the IADB “Development Business”).

6.5.2.3 Matters to be Covered in the Invitation to Tender

The invitation to tender or advertisement should contain, at a minimum, the following information:

- name and address of the procuring entity;
- description of the required works, goods or services;
- location of the deliverable(s)
- basic eligibility requirements, including NCC registration and tax compliance;
- date, time and location where tender or prequalification documents may be collected, and the price charged, if any;
- source of funding;
- closing date and time for tender submission;
- date, time, location and manner of tender opening; and
- tender security (if required)

6.5.3 TENDER DOCUMENTS

6.5.3.1 Quantities Required

The quantities of documents that might be required for the tendering process and for contract documentation should be carefully estimated and a reserve of up to 50% ordered. If the supply of documents is exhausted and these cannot be reprinted in time an extension of the tender period may be necessary.

6.5.3.2 Costs and Charges for Documents

A charge should normally be made to contractors to obtain the tender and/or pre-qualification documents. The person or firm responsible for compiling and reproducing the tender documents should be asked to give an estimate of the price to be charged to each contractor for the documents.

6.5.3.3 Tender Period

A minimum tender period of two to four weeks should be allowed for local tendering. For international tenders a minimum period of six weeks shall be allowed.

6.5.3.4 Tender Document Issue Form

A Tender Document Issue Form shall be provided to the officer who is to issue the tender documents.

6.6 TENDER ACTION

6.6.1 TENDER DOCUMENT ISSUE FORM

The Tender Document Issue Form should be used to record which contractors have picked up the documents and at what times. A sample Tender Issue Form is included at Appendix 1.

The Tender Document Issue Form should be closed at the deadline for receipt of Tenders and signed by the Officer in charge of the tender process.

6.6.2 TENDERERS' QUERIES

Tenderers will often have queries when they feel the documents do not describe the work required sufficiently clearly or where they feel there are errors. A clause describing the procedure to be followed should be inserted in the tender documents as stated in paragraph 6.1.9 above.

6.6.2.1 Form of Queries

The Invitation to Tender should set out in detail the format (e.g. letter, telegram, fax, etc.) in which queries will be accepted by the procuring entity. The time limits for queries will also have been set out (usually at least two weeks before tender closing).

6.6.2.2 Confidentiality

Tenderers, in making queries, may reveal a tendering strategy that they do not want their competitors to know. For this reason the procurement planner, in answering queries, must adopt a procedure which seeks to maintain the anonymity of the tenderer asking any specific query whilst ensuring that all tenderers receive copies of the query together with the answer.

6.6.2.3 Answering Queries

Where queries are received from tenderers during the tender period the following basic rules should be followed:

- Any query made by one contractor must be answered to all contractors;
- All queries must be received more than two weeks before the tender closing date; and
- All queries must be answered at least one week before the tender closing date.

6.6.2.4 Effect of Late Answers to Queries

Where the answer to a query is likely to result in tenderers having to carry out substantial additional work in compiling tenders or where the answer to a query is given late an extension of the tendering period should be granted. See Section 6.6.3 below for the procedure for extending the tender period.

6.6.3 EXTENDING THE TENDER PERIOD

In the event that there is a delay to the process each tenderer shall be so advised by the procuring entity and the reasons for the delay stated. The revised dates for receipt and/or opening of tenders shall be communicated to all tenderers.

6.6.4 THE COMPARABLE ESTIMATE

A comparable estimate, that is one compiled from the same tender documentation as is available to the tenderers, must be requested from the Quantity Surveyor, Engineer or other cost evaluator and must be delivered to the Sector Committee along with the tender report.

6.7 RECEIVING TENDERS

6.7.1 TENDER BOX

Tenders should be deposited into a tender box. The box should ideally have a lockable posting slot so that no tenderer or other person may post a tender or other document into the box without the document being registered by the procurement planner.

The box should also have a lockable top so that documents may only be removed by the procurement planner or designated tender officer who holds the key. The procurement planner will hold the keys and will ensure that there will (at all times when tenders may be received) be an officer to open the slot and record postings.

6.7.2 RECORDING

Tenders shall be received anonymously by numbering and recording the time and date of arrival of the tender on the outer envelope.

6.7.3 TENDER CLOSING TIME

Tenders should only be removed from the box in the presence of the Opening Committee (see below) and at the time stated in the Instructions to Tenderers.

6.8 OPENING TENDERS

6.8.1 TENDER COMMITTEE

On the date and at the time for opening of tenders, the Tender Opening Committee should be convened.

The Tender Opening Committee will normally consist of:

- Chairperson;
- Client's Representative;
- Representatives of the firm(s) which provided Contract Documentation;
- Recording Secretary.

Tenders should be opened immediately after the tender closing time.

6.8.2 TENDER RECEIVAL FORM

A Tender Receival Form shall be prepared and copies made available to all attending the tender opening. A sample Tender Receival Form is included at Appendix 1.

6.8.3 COMPARABLE ESTIMATE

The amount of the Comparable Estimate (see 6.6.4 above) should be written into the Tender Receival Form before any tenders are opened.

6.8.4 PROCEDURE AT OPENING

The Tender Officer shall open the outer envelopes and shall extract the envelopes marked "Tender for..." and shall extract the Form of Tender with the Appendix attached and the Contractor's Tender Bond, Tender Guarantee or Certified Cheque, TCC or any other prescribed item.

The Tender Officer shall read out the name of the tenderer, the tender price, the contract period (if this is subject to competition) and whether there is a valid tender security and TCC.

These parameters will be recorded on a standard Tender Receival Form and will be verified by all the members of the Tender Opening Committee. The Tender Opening Form shall list the names of all those present together with their signatures. The Tender Opening Form shall be photocopied after the meeting so that each member of the Committee may have a copy.

Once all tenders have been opened and announced they should be placed in a box or other container to the inside lid of which will be fixed a copy of the Tender Opening Form. This box will then be signed over to the individual who will be preparing the Tender Report. The Tender Officer will ensure that this procedure is carried out and will sign to certify that the tender documents have been passed to the appropriate person.

6.9 TENDER EVALUATION

6.9.1 GENERAL

Evaluation of tenders should be completed as soon as is practicable after the opening of tenders to allow for the award of the contract prior to the expiry of the tender validity period.

6.9.2 EVALUATORS

Evaluation of tenders shall be undertaken by an officer or officers or other suitable person(s) qualified to do so. Qualifications required for the person or persons undertaking the evaluation of tenders should be commensurate with the various types and values.

6.9.3 ISSUES TO BE ADDRESSED

- The tender evaluation comprises a number of tasks. These tasks are listed below together with recommendations as to who should carry out each task:
- The tenders should first be scrutinized generally to check for omissions of any documents or failure to fill in forms included (e.g., Basic Price List, where applicable). Where it is permissible for such omissions to be rectified tenderers should be contacted and the omissions made good.
- An arithmetic check should be carried out in accordance with the Instructions to Tenderers. The check should be carried out by one individual and counter-checked independently by another.
- Tenderers should be informed of any errors. The procedure to be followed should be as provided for in the Instructions to Tenderers.
- A comparison should be made between each tender and the Comparable Estimate.
- Technical and/or quality considerations should be evaluated.
- The workload of the tenderer(s) should be evaluated.
- Individual rates, where they substantially affect the value of the tender should be compared with expected market rates and comments made.
- A summary comparison of all the tenders with the Comparable Estimate should be made.
- A recommendation stating which tender is recommended for acceptance or stating that none should be accepted should be made. Only one tender should be recommended for acceptance.
- The recommendation should be addressed to the procuring entity.

6.9.4 RECOMMENDATION FOR AWARD

The procurement committee of the procuring entity should now either append their agreement to the recommendations of the tender evaluation or attach a report stating precisely why the tender evaluation is not accepted and stating their own recommendations. The agreement or alternative report, together with the Tender Evaluation, should be sent to the Permanent Secretary of the Ministry with portfolio responsibility for approval or rejection and for transmission to the NCC.

The points to be covered in the recommendation are listed below. Procurement committees must ensure that all the points listed are addressed adequately in the report before giving authority to accept a tender.

- A preamble stating what the procurement committee is being requested to approve (e.g., the award of a contract to a particular tenderer in a specified sum and with a stated contract period), how the contract is to be financed and a brief description of the works, goods or services.
- A brief outline of the Tender Procedure adopted.
- Details of any prequalification exercise carried out and whether, where necessary, approval of any third party (e.g., a funding agency) has been obtained.
- A list of tenders received, their values and, where this has been made the subject of tender, the contract period.
- Details of tender securities included.
- The Tender Evaluator's report.
- The procuring entity's comments.
- Any reference checks (e.g., bank references, previous clients) carried out by the procuring entity.
- The recommendation.

6.9.5 REPORT TO THE NCC SECTOR COMMITTEE

Where the value of a contract is equal to or exceeds J\$4M the report on the evaluation of tenders should be sent by the procurement committee to the appropriate Sector Committee of the NCC. In order to be considered, the report to the Sector Committee must be accompanied by the following documents:

1. Fully completed NCC Transmittal Form. A sample NCC Transmittal Form is included at Appendix 1
2. A letter signed by the Permanent Secretary of the portfolio Ministry endorsing the recommendation and requesting its consideration by the Sector Committee
3. The Tender Document
4. A valid Tax Compliance Certificate

6.9.6 REPORT TO PORTFOLIO MINISTRY

Where required by their internal rules or procedures, procuring entities should send the report on the evaluation of tenders to their Portfolio Ministries for approval.

6.9.7 TENDER VALIDITY PERIOD

If for any reason the tender validity period may expire prior to the award of contract a letter requesting an extension of the tender validity period should be sent to all tenderers.

The letter of request should be received by the tenderer no later than one (1) week prior to the expiry date of the tender.

The letter shall state the period of extension and shall request the tenderer to stand by its tender price, despite the extension.

6.10 CONTRACT AWARD

6.10.1 AUTHORITY TO ACCEPT TENDER

The authority required before a procuring entity may accept a tender varies with the value of the Procurement. The list at 2.3 herein (which is reproduced below) gives the value ranges and the authorities required before contracts may be entered into.

Less than J\$4,000,000	Agency or Ministry shall approve subject to procedures included herein.
From J\$4,000,000.00 but less than J\$15,000,000	Minister shall approve on the recommendation of the NCC.
J\$15,000,000 and above	Cabinet, on the recommendation of the NCC <i>and Minister</i> .

6.10.2 LETTER OF ACCEPTANCE

The moment that authority to accept a tender has been received the procuring entity should issue an acceptance letter to the successful tenderer.

It should be noted that the sending of an acceptance letter constitutes formation of a contract.

6.10.3 FORMAL SIGNING OF CONTRACT

Once the successful contractor has provided his performance security and has put in place the requisite sureties and insurance the formal signing of the contract should be arranged.

The Contractor should be allowed time to peruse the contract before being asked to sign.

A copy of the signed contract agreement should be delivered to each of the following persons:

- The Contractor;
- The Director of Finance of the procuring entity;
- The Chief Procurement Officer of the procuring entity; and

A copy of the executed contract should also be retained in the record of the procurement.

6.10.4 RETURN OF UNSUCCESSFUL TENDERS

Once the successful tenderer has provided the performance surety and put in place required insurances the tenders of the unsuccessful tenderers should be returned to them with a covering letter thanking them for their participation. All tenderers should also be provided with a table showing the tenderers, the amounts of their tender and the successful tender.

APPENDICES

Appendix 1

Forms

- PRS – 1
For use by procuring entities when making monthly reports on procurement activities to the Ministry of Finance and Planning
- Tender Issue Form
For use by procuring entities to record the issuance of tender documents.
- Tender Receival Form
For use by procuring entities to record the tenders received at the time of opening.
- NCC Transmittal Form
For use by procuring entities when making procurement submissions to Sector Committees.

Appendix 2

Standard Contracts

- Procurement of Goods
- Procurement of (consulting) Services
- Procurement of Services

NOTE:

The General Conditions of Contract (GCC) provide the necessary legal protection for procuring entities. Special care should be taken in inserting details particular to each contract action in order to ensure that the legal position of the procuring entity is not compromised. This standard contract document covers the majority of consulting engagements.

Appendix 3

Miscellaneous