



HIRSHABELLE STATE OF SOMALIA

Public Financial Management Law 2018

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Regulation #8

On Establishing the Public Procurement Policies and Procedures Manual

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Abbreviations

BEP	Bid Evaluation Panel
BDS	Bid Data Sheets
FBS	Fixed Budget Selection
GCC	General Conditions of Contract
GPN	General Procurement Notice
IDIQ	Indefinite Delivery and Indefinite Quantity
IFB	Invitation for Bids
Hirshabelle State of Somalia	Federal Member State
ISO	International Standards Organization
ITC	Instructions to Consultants
LCS	Least Cost Selection
LOI	Letter of Invitation
PPM	Procurement Procedures Manual
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
REOI	Request for Expression of Interest
RFP	Request for Proposal
SBD	Standard Bidding Documents
SCC	Special Conditions of Contract
SPN	Specific Procurement Notice
SSS	Single Source Selection
TEP	Technical Evaluation Panel
TOR	Terms of Reference

1. AUTHORITY AND PURPOSE

1.1 Authorities

1.1.1 This regulation is issued pursuant to Section 6, Paragraph 3, Section 7 and Section 30, Paragraphs 5 and 6 of the Public Financial Management Law 2018. This regulation is a “disallowable instrument” as defined in the PFM Act and in accordance with Section 7 is subject to a review period not to exceed ten (10) days by Parliament.

1.2 Purpose and Scope

1.2.1 The principles, rules, and procedures set out in this Regulation on Public Procurement Policy and Procedures is organized as a Manual (“Procurement Procedures Manual” or “PPM”) shall govern the conduct and administration by the Hirshabelle State of Somalia (hereafter referred to as Hirshabelle State of Somalia) of the procurement of the goods, works, Consultants, and non-Consultant services that need to be acquired to implement budget requirements or development projects funded by the Hirshabelle State of Somalia or with funds provided by any international Donor, and that are processed through the Hirshabelle State of Somalia Treasury Single Account unless said Donors specifically agree to the application of alternative procurement procedures.¹

1.3 Effective Date

1.3.1 . It shall become effective on the date approved.

1.4 Official Language and Appropriate Use of Somali

1.4.1 English is the official operating language of Hirshabelle State of Somalia procurement documents, records and reports; with translation into Somali deemed acceptable.

1.4.2 To allow for fair and open competition and inclusion of local entities and individuals, all advertisements for contracts and notices of contract awards for shall be posted in English and Somali.

1.4.3 For all contracts, the solicitation documents, the documents responding to these solicitations (including the bids) and the contracts themselves shall be prepared in English, and English shall govern contractual relations between the Hirshabelle State of Somalia and the supplier, contractor or Consultant. At the discretion of the Hirshabelle State of Somalia, the solicitation documents also may be prepared in Somali, provided that if the documents are prepared in both languages, the English version will control. However, contractors and suppliers shall not be permitted or required to sign contracts in two languages.

¹The [FMS] PPM is based on “Guidelines: Procurement Under IBRD Loans and IDA Credits May 2004, revised October 2006” and Guidelines: Selection and Employment of Consultants by World Bank Borrowers, May 2004, revised October 2006”. © 2004 by the International Bank for Reconstruction and Development/The World Bank. All rights reserved. For further information, please visit <http://www.worldbank.org>

2. PROCUREMENT COMMITTEE, OVERSIGHT AND RECORD KEEPING

2.1 Procurement Committee

2.1.1 A Procurement Committee shall be formed within the Hirshabelle State of Somalia and shall act as the reviewer of processes as defined in this Procurement Procedures Manual. The Procurement Committee shall review the Hirshabelle State of Somalia procurement procedures, documents, bid evaluations, award recommendations, and contracts to ensure that the procurement process is carried out in accordance with the agreed procedures.

2.2 Procurement Records

2.2.1 The Hirshabelle State of Somalia shall maintain complete and uniform procurement records according to a standard format approved by Hirshabelle State of Somalia. The procurement records will be retained by the Hirshabelle State of Somalia for at least seven (7) years. As part of the procurement records, the Hirshabelle State of Somalia shall retain all documentation with respect to each contract which should include, but is not to be limited to, the signed original of the contract, the analysis of the respective proposals, recommendations for award, the record of Hirshabelle State of Somalia approvals, and the record of any bidder challenge or dispute. The procurement records are subject to examination by internal and external Auditors.

3. PROCUREMENT PLANNING, IMPLEMENTATION AND REPORTING

3.1 Procurement Plan

3.1.1 The Hirshabelle State of Somalia shall prepare periodic procurement plans for acquiring goods, works, consultant, and non-consultant services, a ("*Procurement Plan*"). The Procurement Plan is a key program planning and implementation document prepared by the Hirshabelle State of Somalia. The primary function of the Procurement Plan is to serve as a managing tool by which the Hirshabelle State of Somalia oversees the procurement activities.

3.2 Procurement Plan Requirements and Approvals

3.2.1 The Hirshabelle State of Somalia shall ensure that all goods, works, consultant and non-consultant services shall be procured using the procurement method approved in the Procurement Plan. The Hirshabelle State of Somalia shall periodically prepare a Procurement Plan for all acquiring goods, works, consultant and non-consultant services over two thousand five hundred United States Dollars (US \$2,500) needed to implement the required projects. Compliance, satisfactory to the Procurement Committee, with the approved Procurement Plan shall be a condition precedent to disbursements or payments. Each Procurement Plan shall be submitted to the Procurement Committee for its approval. Each Procurement Plan will cover a specific minimum

period of time, which shall be at least six (6) months in duration (longer periods are strongly encouraged where appropriate), and shall be updated, at a minimum every six (6) months.

3.3 Procurement Plan Contents and Organization

3.3.1 The Procurement Plan shall (a) list the particular contracts for the Goods, Works, non-Consultant and Consultant Services required to implement the Investment Plan for the period covered in such Procurement Plan; (b) identify the proposed method of procurement for such contracts as determined according to the rules set out in this Procurement Procedures Manual; and (c) set forth the estimated value for each contract. The Procurement Plan shall be organized as follows: each procurement action shall be categorized under goods, works, consultant services, or non-consultant services. Each procurement action shall then be linked to the Project for which it is being procured using a numbering system or other system of identification.

3.4 Procurement Plan Amendments

3.4.1 If the Hirshabelle State of Somalia determines that a material change from the approved Procurement Plan is necessary or appropriate, the Hirshabelle State of Somalia shall propose an amendment and secure approval from the Procurement Committee *before* beginning the new or changed procurement action. The Hirshabelle State of Somalia shall submit an amended Procurement Plan for approval whenever new procurements are planned.

3.5 Procurement Committee Authority to Declare a Misprocurement

3.5.1 No procurement shall proceed unless it has been procured in accordance with the agreed provisions as detailed in this Procurement Procedures Manual, and where applicable, the approved Procurement Plans. In such cases, the Procurement Committee will declare a Misprocurement and insist upon satisfactory corrective measures to be taken. The Procurement Committee may, in addition, exercise other remedies. Even once the contract is awarded the Procurement Committee may still declare a Misprocurement if it concludes that the approval was issued on the basis of incomplete, inaccurate, or misleading information that was furnished, or the terms and conditions of the contract had been substantially modified without approval.

4. CONDUCT AND ADMINISTRATION OF PROCUREMENT FOR GOODS, WORKS AND NON-CONSULTANT SERVICES

4.1 Introduction

4.1.1 Section 4 of this Procurement Policy Manual sets forth the principles, rules, and procedures generally applicable to the procurement of goods, works, and non-consultant services awarded and/or funded by the Hirshabelle State of Somalia including with funds provided by any international Donor that are processed through the Hirshabelle State of Somalia Treasury Single Account.

4.2 General Considerations

4.2.1 Hirshabelle State of Somalia is responsible for implementing Projects and therefore for selecting the contractors and suppliers and awarding and subsequently administering the contracts. While in practice the specific procurement rules and procedures to be followed in the implementation of a Project depend on the circumstances of the particular case, the following five considerations generally guide the application of this Procurement Procedures Manual - **these are led by item (a) below - the "guiding principle" for the Hirshabelle State of Somalia:**

(a) **Conduct all activities with the highest levels of integrity, in a fair and transparent manner with an obvious lack of any corrupt practices. This shall act as the guiding principle to all procurement activities for the Hirshabelle State of Somalia.**

(b) Open, fair, and competitive procedures used in a transparent manner to solicit, award, and administer contracts to procure goods, works, and non-consultant services;

(c) Procurements for goods, works, and non-consultant services shall be based upon a clear and accurate description of the goods, works, or non-consultant services to be acquired;

(d) Contracts shall be awarded only to qualified and capable suppliers and contractors that have the capability and willingness to perform the contracts in accordance with the terms and conditions of the applicable contracts and/or Local Purchase Order and on a cost-effective and timely basis; and

(e) No more than a commercially reasonable price (as determined, for example, by a comparison of price quotations and market prices) shall be paid to procure goods, works, and non-consultant services.

4.2.2 The Hirshabelle State of Somalia shall ensure that all the procurements for goods, works, and non-consultant services undertaken in furtherance of the Hirshabelle State of Somalia's objectives and funded in whole or in part, directly or indirectly, with Donor funding shall comply with these Hirshabelle State of Somalia Procurement Principles.

4.2.3 Open competition is the basis for efficient public procurement. In most cases therefore, the Hirshabelle State of Somalia requires that where possible goods, works, and non-consultant services be obtained through a competitive bidding process ("**Competitive Bidding**") open to eligible suppliers and contractors.

4.2.4 Where Competitive Bidding is not the most appropriate method of procurement, other methods of procurement may be used. Sub-Sections 4.25 and 5.18 describe these other methods of procurement and the circumstances under which their application would be more appropriate. The particular methods to be followed for procurements shall be set out in Procurement Plans as approved by the Hirshabelle State of Somalia and the Procurement Committee.

4.3 Conflict of Interest

4.3.1 Bidders, suppliers, contractors, and subcontractors shall provide professional, objective, and impartial advice and at all times hold the interests of the Hirshabelle State of Somalia paramount, without any consideration for future work. Firms and individuals shall avoid conflicts

with other assignments and their own corporate interests. Firms and individuals shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Hirshabelle State of Somalia. Without limiting the generality of the forgoing, firms and individuals shall not be hired under the circumstances set forth below:

4.3.2 Conflict between consultant activities and procurement of goods, works, or non-consultant services: A firm, and each of its affiliates, or an individual that has been engaged by the Hirshabelle State of Somalia or a donor or other to provide goods, works, or non-consultant services for a procurement shall be disqualified from providing consultant services related to those goods, works, or non-consultant services. Conversely, a firm, and each of its affiliates, or an individual hired to provide consultant services for the preparation or implementation of a specific procurement activity or Project shall be disqualified from subsequently providing goods, works, or non-consultant services resulting from or directly related to the firm's or individual's consultant services for such preparation or implementation.

4.3.3 Relationships with Hirshabelle State of Somalia Ministers or Civil Servants: A firm or individual that has been engaged by the Hirshabelle State of Somalia to provide, goods, works, or services (including their personnel, subcontractors and affiliates) that either are themselves or have a business or family relationship with (i) Hirshabelle State of Somalia Ministers or Civil Servants, (ii) Procurement or Project implementing staff, whom is directly or indirectly involved in any part of: (A) the preparation of the bidding documents related to the procurement, including the contract, (B) the selection process for such procurement, or (C) the supervision of any contract awarded in the procurement, may not be awarded the contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to Hirshabelle State of Somalia throughout the process of preparing the documents related to the procurement, the selection process and the award and execution of the contract.

4.4 Eligibility

4.4.1 To foster competition, the Hirshabelle State of Somalia permits firms and individuals to offer goods, works, and non-consultant services except firms and individuals from any country subject to current International Bank for Reconstruction and Development ("World Bank") restrictions and/or sanctions. Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question. Eligibility verification shall be conducted and procedures for this are contained within Section 8 of this Procurement Procedures Manual.

4.4.2 The Hirshabelle State of Somalia shall not deny pre- or post- qualification to a firm for reasons unrelated to its capability and resources to perform the contract successfully; nor shall it disqualify any bidder for such reasons. Consequently, the Hirshabelle State of Somalia should carry

out due diligence on the legal, technical, and financial qualifications of bidders to be assured of their capabilities in relation to the specific contract.

4.4.3 As exceptions to the foregoing:

(a) Firms of a country or goods manufactured in a country may be excluded if, (i) as a matter of law or official regulation, the World Bank prohibits commercial relations with that country, provided that Hirshabelle State of Somalia is satisfied that such exclusion does not preclude effective competition for the supply of goods, works or non-consultant services required, or (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the country of the Hirshabelle State of Somalia prohibits any import of goods from, or payments to, a particular country, person, or

(b) A firm, and any of its affiliates, which has been engaged to provide consultant services for the preparation or implementation of a procurement or Project shall be disqualified from subsequently providing goods, works, or non-consultant services resulting from or directly related to the firm's consultant services for such preparation or implementation.

(c) Government-owned enterprises, may participate only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law.

(d) A firm declared ineligible in accordance with the relevant sections of this Procurement Procedures Manual shall be ineligible to be awarded a Contract. This would also remove from eligibility any procurement from a country or from a firm that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by the World Bank.

4.5 Joint Ventures

4.5.1 Any firm may bid independently or in joint venture (so long as all firms participating in the joint venture are jointly and severally liable) with domestic firms and/or with foreign firms.

4.6 Fraud and Corruption

4.6.1 All beneficiaries, including the Hirshabelle State of Somalia and any bidders, suppliers, contractors, and subcontractors shall observe the highest standards of ethics during the procurement and execution of such contracts. For the purposes of these provisions, the terms set forth below are defined as follows:

(a) "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly, persons or their property, to influence their participation in a procurement process, or affect the execution of a contract;

(b) "collusive practice" means a scheme and/or an arrangement between two (2) or more parties, with or without the knowledge of the Hirshabelle State of Somalia, designed to establish prices at artificial, noncompetitive levels or to otherwise deprive the Hirshabelle State of Somalia of the benefits of free and open competition;

(c) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of a public official in the selection process or in contract execution, or the making of any payment to any third party, in connection with or in furtherance of a contract, in violation of relevant regulations;

(d) “fraudulent practice” means any act or omission, including any misrepresentation, in order to influence (or attempt to influence) a selection process or the execution of a contract, to obtain a financial or other benefit, or to avoid (or attempt to avoid) an obligation;

(e) “obstructive practice” means destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to impede an investigation into allegations of a coercive, collusive, corrupt, fraudulent, or prohibited practice; and threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, and acts intended to impede the exercise of the inspection and audit rights of a Donor, and;

(f) “prohibited practice” means any action that violates: (a) this Procurement Procedures Manual, any Somali law or (c) any policy of an international donor with regard to compliance with Anti-Corruption, Anti-Money Laundering and Terrorist Financing Statutes and Other Restrictions.

4.6.2 The Hirshabelle State of Somalia and/or Procurement Committee will reject a bid if it determines that the bidder recommended for award has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive, or prohibited practices in competing for the contract in question.

4.6.3 The Hirshabelle State of Somalia and/or Procurement Committee have the right to sanction a bidder, supplier, contractor, or subcontractor, including declaring such party ineligible, either indefinitely or for a stated period of time, to be awarded a contract if at any time either the Hirshabelle State of Somalia and/or Procurement Committee determines that the bidder, supplier, contractor, or subcontractor has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices in competing for, or in executing, such a contract.

4.6.4 The Hirshabelle State of Somalia has the right to require that a provision be included in solicitation documents and in Hirshabelle State of Somalia funded contracts requiring a bidder, supplier, contractor, or subcontractor to permit the Hirshabelle State of Somalia or any designee of Hirshabelle State of Somalia, to inspect its accounts, records and other documents relating to the submission of a bid or performance of an Hirshabelle State of Somalia Contract.

4.6.5 The Hirshabelle State of Somalia may introduce into its Standard Bidding Documents an undertaking of the bidder to observe (in competing for and executing a contract) the State and the country’s laws against fraud and corruption (including bribery), in addition to adherence to this Procedures Manual.

4.7 Price-Reasonableness Analysis

4.7.1 One of the Hirshabelle State of Somalia Procurement Principles is that “No more than a commercially reasonable price (as determined, for example, by a comparison of price quotations and market prices) shall be paid to procure goods, works, and non-consultant services.” To ensure compliance with this principle, the Hirshabelle State of Somalia shall systematically gather bid and price information for all procurements and use this as part of the process of conducting a price-reasonableness analysis of the prices offered in a procurement process, both for competitive and single-source procurements, for goods, works, consultant and non-consultant services in accordance with Attachment 6, Guidance on the Price-Reasonableness Analysis.

4.8 Competitive Bidding

4.8.1 The objective of Competitive Bidding, as described in this Procurement Procedures Manual, is to provide all eligible prospective bidders with timely and adequate notification of the Hirshabelle State of Somalia’s requirements and an equal opportunity to bid for the required goods, works, and non-consultant services.

4.8.2 The size and scope of individual contracts will depend on the magnitude, nature, and location of the procurement or Project. For Projects requiring a variety of goods and works, separate contracts generally are awarded for the supply and/or installation of different goods and for works. The choice of contract will depend upon procurement efficiency, minimizing overhead, mobilization costs, easing the contract administration and oversight burden, market considerations, and funding availability.

4.8.3 For a Project requiring similar but separate items of goods or works, bids may be invited under alternative contract options that would attract the interest of both small and large firms which could be allowed, at their option, to bid for individual lots or for a group of similar lots. All bids and combinations of bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest evaluated cost to the Hirshabelle State of Somalia.

4.8.4 In the case of turnkey contracts or contracts for large complex facilities or works of a special nature, or complex information and communication technology, it may be undesirable or impractical to prepare complete technical specifications in advance. In such a case, a two-stage bidding procedure may be used, under which first un-priced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments, to be followed by amended bidding documents and the submission of final technical proposals and priced bids in the second stage.

4.8.5 **Notification and Advertising:** Timely notification of procurement opportunities is essential in competitive bidding. On at least a semi-annual basis, the Hirshabelle State of Somalia shall publicize through a General Procurement Notice (GPN), procurements planned for the

upcoming period as identified in the adopted Procurement Plan which was approved by Procurement Committee. The GPN shall be advertised in a manner to provide reasonable notice of planned procurements to potential suppliers and contractors. When each bid is ready to be issued it shall be advertised as a Specific Procurement Notice (SPN) in the same manner.

4.8.6 Pre-qualification of Bidders: Pre-qualification can be conducted for large or complex works, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom designed equipment, industrial plants, specialized services, some complex information and technology. The scope of the contract and a clear statement of the requirements for qualification shall be sent to those who responded to the invitation to pre-qualify. The Hirshabelle State of Somalia shall inform all applicants of the results of pre-qualification. Following pre-qualification, the bidding documents shall be made available to the qualified prospective bidders. For pre-qualification for groups of contracts to be awarded over a period of time, a limit for the number or total value of awards to any one bidder may be made on the basis of the bidder's resources. The list of prequalified firms in such instances shall be reviewed annually and updated as necessary. Verification of the information provided in the submission for pre-qualification shall again be confirmed prior to award of contract, and award may be denied to a bidder that is judged no longer to have the capability or resources to perform the contract successfully.

4.9 Bidding Documents

4.9.1 The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the goods, works or non-consultant services to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation for bids; instructions to bidders and a bid data sheet: evaluation and qualification criteria, bidding forms; form of contract, including both general and specific conditions; specifications and drawings; relevant technical data (including of geological and environmental nature); list of goods or bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities. The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their printing and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. The Hirshabelle State of Somalia may use an electronic system to distribute bidding documents, provided that Hirshabelle State of Somalia is satisfied with the adequacy of such system. If bidding documents are distributed electronically, the electronic system shall be secure to avoid modifications to the bidding documents and shall not restrict the access of bidders to the bidding documents. Guidance on the critical components of the bidding documents is given in the following paragraphs.

4.9.2 The Hirshabelle State of Somalia shall use the appropriate Standard Bidding Documents (SBD). The SBDs may be modified to address Project specific conditions, subject to approval by Procurement Committee when the change is material. To the extent possible, such changes shall be introduced through the Bid Data Sheets (BDS), Appendix to Bid or through the Special Conditions of Contract (SCC) and not by introducing changes in the General Conditions of Contract (GCC).

4.9.3 **Validity of Bids:** Bidders shall be required to submit bids valid for a period specified in the bidding documents which shall be sufficient to enable the Hirshabelle State of Somalia to complete the comparison and evaluation of bids, review the recommendation of award with the Procurement Committee (if required), and obtain all the necessary approvals so that the contract can be awarded within the validity period. If this process has not been completed by the end of the bid validity period Hirshabelle State of Somalia may request Bidders to extend their bid validity.

4.9.4 **Bid Security:** The Hirshabelle State of Somalia has the option of requiring a bid security. However, bid securities are normally only used for high priced works contracts. When used, the bid security shall be in the amount and form specified in the bidding documents and shall remain valid for a sufficient time beyond the validity period of the bids, in order to provide reasonable time for the Hirshabelle State of Somalia to act if the security is to be called. The format of the bid security shall be in accordance with the SBD and shall be issued by a reputable bank or financial institution selected by the bidder. If the institution issuing the security is located outside of Somalia, it shall have a correspondent financial institution located in Somalia. Except under certain circumstances that are to be clearly stated in the bidding documents (e.g. where a bidder withdraws its bid during the period of bid validity, where a bidder does not accept certain corrections to its bid, or where an otherwise successful bidder fails to sign the contract or provide the performance security within the time specified) bid securities shall be released to both the unsuccessful bidders and the successful bidder, once the contract has been signed with the winning bidder.

4.9.5 **Clarity of Bidding Documents:** Bidding documents shall be so worded as to permit and encourage international competition and shall set forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions. In addition, the bidding documents, where appropriate, shall define the tests, standards, and methods that will be employed to judge the conformity of equipment as delivered, or works as performed with the specifications. Drawings shall be consistent with the text of the specifications. All the documents which will become the contract documentation shall be listed in their order of precedence, and these will later become the contract with the successful bidder.

4.9.6 The bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated. If

bids based on alternative designs, materials, completion schedules, etc. are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated.

4.9.7 All prospective bidders shall be provided the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis. The Hirshabelle State of Somalia shall provide reasonable access to Project sites for visits by prospective bidders. For works or complex supply contracts, particularly for those requiring refurbishing existing works or equipment, a pre-bid conference may be arranged whereby potential bidders may meet with representatives of the Hirshabelle State of Somalia to seek clarifications (in writing). Minutes of the conference shall be provided to all prospective bidders with a copy included in the record of the procurement. Any additional information, clarification, correction of errors, or addenda to bidding documents shall be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. If such changes or addenda require extra time by the bidders, the deadline for submission of bids may be extended by the issue of an addendum. For any bidding documents originally approved by the Procurement Committee, they will also provide final approval of all responses, modifications, and addenda before their being sent by the Hirshabelle State of Somalia to the prospective bidders or consultants.

4.10 Standards and Technical Specifications

4.10.1 Standards and technical specifications quoted in bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods, works or non-consulting services under procurement. As far as possible, the Hirshabelle State of Somalia shall specify internationally accepted standards such as those issued by the International Standards Organization (ISO) with which the equipment or materials or workmanship shall comply. Where such international standards are unavailable or are inappropriate, national standards may be specified. In all cases, the bidding documents shall state that equipment, material, or workmanship meeting the industry standards, which promise at least substantial equivalence, will also be accepted.

4.10.2 **Non Use of Brand Names:** Specifications shall be based on relevant characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications shall be avoided. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.

4.10.3 **Over-Specification:** Over specification-occurs when a specification exceeds the minimum standards necessary to complete the intended task and should be avoided.

4.10.4 **Procedures for Verifying Proper Specification:** The Hirshabelle State of Somalia must propose specifications for the procurement of goods that meet the minimum requirements necessary to complete the intended task. Goods which meet the minimum standards do not have to be goods of the lowest possible quality, but must have the minimum physical, functional and/or performance characteristics required to complete the intended work in an effective and efficient manner.

4.10.5 The Procurement Department of the Hirshabelle State of Somalia is then responsible for verifying the specifications and questioning any instances where over-specification is indicated. Extraordinary circumstances which may require specifications above minimum requirements must be documented and noted when submitted for Procurement Committee approval.

4.10.6 In all instances of over-specification, the primary consequences are restriction of competition and the potential for excessive and inefficient expenditure of funds. Competition is restricted because over-specification excludes viable alternatives that could meet the minimum standards of the intended use without inhibiting program efficiency. This not only limits the number of bids that could be received and considered, but represents the potential for intentional manipulation and fraud. There is also the potential for waste of funds because over-specification can also result in unnecessary price increases.

4.11 Pricing

4.11.1 Unless otherwise specified in the bidding documents, bids for goods shall be invited on the basis of (a) CIP² for all goods manufactured abroad, including those previously imported, and (b) EXW³ for goods manufactured or assembled in Somalia, plus the cost of inland transportation and insurance to the place of destination. Bidders shall be allowed to arrange for ocean and other transportation and related insurance from any eligible source. Where installation, commissioning, or other similar services are required to be performed by the bidder, as in the case of "supply and installation" contracts, the bidder shall be required to quote for these services, in addition to the goods.

4.11.2 Bidders for works contracts shall be required to quote unit prices or lump sum prices for the performance of the works. Bidders shall be allowed to obtain all inputs from any eligible source so that they may offer their most competitive bids.

4.12 Price Adjustment

4.12.1 Bidding documents shall state either (a) that bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within

²Refer to INCOTERMS 2010, published by the International Chamber of Commerce, Cours Albert 1er, 75008 Paris, France, for definition of CIP.

³Refer to INCOTERMS 2010, published by the International Chamber of Commerce, Cours Albert 1er, 75008 Paris, France, for definition of EXW.

eighteen (18) months, but might be included in contracts which extend beyond eighteen (18) months.

4.12.2 Prices may be adjusted by the use of a prescribed formula (or formulae) which breaks down the total price into components that are adjusted by price indices specified for each component or, alternatively, on the basis of documentary evidence (including actual invoices) provided by the supplier or contractor. The use of the formula method of price adjustment is preferable to that of documentary evidence. The method to be used, the formula (if applicable), and the base date for application shall be clearly defined in the bidding documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formula, to avoid incorrect adjustment.

4.13 Transportation and Insurance

4.13.1 The SBDs shall permit suppliers and contractors to arrange transportation and insurance from any eligible source. SBDs shall state the types and terms of insurance to be provided by the bidder. The indemnity payable under transportation insurance shall be at least 110 percent of the contract price denominated in United States dollars or local currency, depending upon the currency of the contract. For works contracts, a contractor's "all risk" form of policy usually shall be specified. For large Projects with several contractors on a site, a "wrap up" or total Project insurance arrangement may be obtained by the Hirshabelle State of Somalia, in which case the Hirshabelle State of Somalia shall seek competition for such insurance.

4.14 Allowable Currencies for Bids

4.14.1 The SBDs shall state that the currency in which bidders are to state their prices shall be United States Dollars. Bidders must comply with the currency restrictions as set out in the SBDs.

4.15 Terms and Methods of Payment

4.15.1 The SBDs shall specify the terms and methods of payment. Terms of payment may not be used as an evaluation criterion and must not affect the bid evaluation. Payment terms shall be in accordance with the international commercial practices applicable to the specific goods, works, or non-consultant services.

4.15.2 Contracts for the supply of goods shall provide for full payment on the delivery and inspection of the contracted goods except for contracts involving installation, commissioning and testing, in which case a portion of the payment relating to the installation should be made after the contractor has completed the installation and commissioning and complied with all its obligations under the contract. If possible, the use of Letters of Credit is encouraged so as to assure prompt payment to the supplier. In major contracts for goods and plants, provision shall be made for partial/interim payments for work done and, in contracts of long duration interim payments will be made to the contractor during the period of supply, installation, and commissioning.

4.15.3 Contracts for works shall provide for interim progress payments (usually monthly) for work done in furtherance of contract performance, less a retention percentage as specified in the contract. Retention money so withheld shall be released at the successful completion of the contract and upon compliance with the all contractor's obligations.

4.15.4 Any interim payments for work done shall be based on the estimated amount of the work completed to date, less previous payments, and the method for certification of work done (usually by an independent Engineer or Consultant) shall be specified in the contract. Amounts and timing of other payments to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified in the contract.

4.16 Advance Payments

4.16.1 Advance payments are advances of funds to a supplier or contractor at the start of a contract, to assist them with their cash flow needs for the purpose of their performance under the contract. Since advance payments are not measured by contract performance, they differ from progress payments which are based on actual performance of tasks done. Advance payments may be used to cover the initial mobilization expenses for large capital works contracts or for custom-made goods. Before making any advance payment, the contractor shall submit a bank guarantee in favour of Hirshabelle State of Somalia of the same amount as the advance payment, to be held by Hirshabelle State of Somalia as a security in the event of non-performance by the supplier or contractor. The advance payment will be recovered from the contractor by making suitable deductions from invoices. Advance payments should be limited to a maximum of ten percent (10%) of the contract price for all types of procurement. Alternatively, a fixed sum may be specified in the bidding documents as the advance payment, in which case the amount should be set as approximately 10% of the budget for the procurement. Non-Consultants services contracts and Consultancy services contracts should usually have no advance payment. The justification and approval of advance payments must be included in the procurement files and approved by the Procurement Committee.

4.17 Interim (Progress) Payments

4.17.1 For short term contracts of three (3) months or less a single payment on delivery/completion is the preferred payment method. However, interim payments are the preferred form of payment for contracts, whether for goods, works, or services, where the length of the contract exceeds three (3) months. Interim payments are multiple payments (usually monthly), each payable upon acceptable partial performance of the contract. Although interim payments are considered as a method of payment and not as a means of contract financing, payment for partial performance provides suppliers and contractors with needed working cash flow. Thus interim payments may reduce the need for large advance payments.

4.17.2 Whenever appropriate, the contract deliverables and the payment schedule should be designed to permit acceptance and payment for discrete portions of contract performance that comply with applicable contract terms, such that payment can be made soon after completion of each deliverable. During the early stages of a contract execution, payments may be scheduled for deliverables of such tasks or items of work as (a) a work plan or inception report, (b) achievement of defined milestones, such as orders placed or staff mobilized, (c) establishment of an office, and (d) deposits on goods or services required for contract performance. Once the contractor has mobilized, the payments would most likely be less frequent and the deliverables to trigger payment would be tied to performance of the programmatic work, such as a percentage or stage of completion, accomplishment of defined milestones or other quantifiable measures of results.

4.17.3 Progress payments based on costs are appropriate only in the case of cost-reimbursement type of contracts. Progress payments based on costs would be based on the documentation supporting the costs incurred by the supplier or contractor as work progresses under the contract. Cost-reimbursement contracts are extremely difficult to administer. In all cases where progress payments based on costs are used, the Hirshabelle State of Somalia must ensure that all costs under such contracts are allowable and appropriately recorded and justified in accordance with the relevant Cost Principles.

4.18 Final Payment

4.18.1 Final payment is made only after all contract performance is completed and accepted. Normally, a percentage of the contract amount is retained for a period of time after physical completion and delivery of goods or works. Retentions are not normally used under contracts for services.

4.19 Performance Security and Guarantees

4.19.1 Performance Security shall not be applicable to any Hirshabelle State of Somalia bids or subsequent contracts.

4.20 Alternative Bids

4.20.1 The SDBs shall clearly indicate when bidders are allowed to submit alternative bids, how alternative bids should be submitted, how bid prices should be offered and the basis on which alternative bids shall be evaluated.

4.21 Liquidated Damages and Bonus Claims

4.21.1 Provisions for liquidated damages or similar provisions in an appropriate amount (if used these are normally specified as "0.05% of the contract price per day of delay with a maximum sum of 5% of the Contract Price) shall be included in the conditions of contract when delays in the delivery of goods, completion of works or failure of the goods, works or non-consultant services to meet performance requirements would result in extra cost or loss of revenue or loss of other benefits to the Hirshabelle State of Somalia. With prior approval of Hirshabelle State of Somalia,

provision may also be made for a bonus to be paid to suppliers or contractors for completion of works or delivery of goods ahead of the times specified in the contract when such earlier completion or delivery would be of benefit to the Hirshabelle State of Somalia.

4.22 Force Majeure

4.22.1 The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is the result of an event of force majeure as defined in the conditions of contract.

4.23 Applicable Law and Settlement of Disputes

4.23.1 The Conditions of Contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. Settlement of disputes shall take place in a country stated by the Conditions of Contract. In the case of works contracts, supply and installation contracts, and the dispute settlement provision might also include mechanisms such as dispute review boards or adjudicators, which are designed to permit a speedier dispute settlement.

4.24 Bid Opening, Evaluation and Award of Contract

4.24.1 Time for Preparation of Bids: The time allowed for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the assignment, the magnitude and complexity of the contract, and the period of advance notice provided by the GPN and if applicable SPN. Where large works or complex items of equipment are involved, the period shall be long enough to enable prospective bidders to conduct investigations before submitting their bids. In such cases, the Hirshabelle State of Somalia is encouraged to convene pre-bid conferences and arrange site visits. Bidders shall be permitted to submit bids by courier or by hand. Hirshabelle State of Somalia may also use electronic systems permitting bidders to submit bids by electronic means, provided Hirshabelle State of Somalia is satisfied with the adequacy of the system, including, inter alia, that the system is secure, maintains the confidentiality and authenticity of bids submitted and uses an electronic signature system or equivalent to keep bidders bound to their bids. In this case, bidders shall continue to have the option to submit their bids in hard copy. The deadline and place for receipt of bids shall be specified in the invitation to bid.

4.24.2 **Bid Opening Procedures:** The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly thereafter, i.e., to allow sufficient time to take the bids to the place announced for public bid opening and shall be announced, together with the place for bid opening, in the invitation to bid. The Hirshabelle State of Somalia shall open all bids at the stipulated time and place. Bids received after the time stipulated shall not be considered. Bidders or their representatives shall be allowed to be present (in person or online, when electronic bidding is used) at the bid opening. The general public may not attend. The name of the bidder and total amount of each bid, and of any alternative bids if they have been requested or permitted, shall be read aloud (and posted online when electronic bidding is used) and recorded when opened. A copy

of this record shall be provided to bidders in accordance with the provisions of the bidding documents.

4.24.3 Clarifications or Alterations of Bids: Except as otherwise provided in this Procurement Procedures Manual, bidders shall not be requested or permitted to alter their bids after the deadline for receipt of bids. The Hirshabelle State of Somalia shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing, in hard copy and/or by an electronic system satisfactory to Hirshabelle State of Somalia.

4.24.4 Confidentiality: After the public opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the publication of contract award.

4.24.5 Examination of Bids: The Hirshabelle State of Somalia shall ascertain whether the bids (a) meet the eligibility requirements specified in this Procurement Procedures Manual, (b) have been properly signed, (c) are accompanied by the required securities or required declaration signed as specified in this Procurement Procedures Manual, (d) are substantially responsive to the SDB, and (e) are otherwise generally in order. If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions, and specifications in the bidding documents, it shall not be considered further. The bidder shall not be permitted to correct or withdraw material deviations or reservations once bids have been opened.

4.24.6 Evaluation and Comparison of Bids: The purpose of bid evaluation is to determine the price to the Hirshabelle State of Somalia of each bid in a manner that permits a comparison on the basis of their evaluated price. Subject to details within this Procurement Procedures Manual, the bid with the lowest evaluated price but not necessarily the lowest submitted price shall be selected for award.

4.24.7 The bid price read aloud at the bid opening shall be adjusted to correct any arithmetical errors. Also, for the purpose of evaluation, adjustments shall be made for any quantifiable nonmaterial deviations or reservations.

4.24.8 The evaluation and comparison of bids shall be on CIP prices for the supply of imported goods, the Hirshabelle State of Somalia may ask for prices on a CIF basis (and bids compared on that same basis) only when the goods are carried by sea and the goods are not containerized. CIF shall not be used for anything other than sea transport. In the case of manufactured goods, it is unlikely that the choice of CIF will be appropriate, because these goods are usually containerized. CIP can be used for any mode of transport, including sea and multimodal transport. EXW prices, plus cost of inland transportation and insurance to the place of destination, may be used for goods manufactured within Somalia, together with prices for any required installation, training,

commissioning, and other similar services. The evaluation of bids shall not take into account: (a) customs duties and other taxes levied on imported goods quoted CIP (which are excluded of custom duties); or (b) sales and similar taxes levied in connection with the sale or delivery of the goods.

4.24.9 The SDBs shall also specify the relevant factors in addition to price to be considered in bid evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated bid. For goods and equipment, other factors may be taken into consideration including, among others, delivery time, operating costs, efficiency and compatibility of the equipment, availability of service and spare parts, and related training, safety, and environmental benefits. The technical responsiveness factors other than price to be used for determining the lowest evaluated bid shall be given a relative weight in the evaluation provisions in the bidding documents.

4.24.10 Bid evaluation for works shall be based solely on the bid price of the bids which comply with all the technical specifications. Bids which are not technically compliant shall be rejected. Any evaluation procedure under which bids above or below a predetermined project cost estimate are automatically disqualified is not acceptable. If time is a critical factor, the value of early completion to the Hirshabelle State of Somalia may be taken into account according to criteria presented in the bidding documents, only if the conditions of contract provide for commensurate penalties for noncompliance and the Hirshabelle State of Somalia has granted prior approval.

4.24.11 The Hirshabelle State of Somalia shall prepare a detailed report on the evaluation and comparison of bids setting forth the specific reasons on which the recommendation is based for the award of the contract.

4.24.12 **Domestic Preferences:** The Hirshabelle State of Somalia may, subject to it being included in the SBD prior to issuance, allow for domestic preferences.

4.24.13 **Extension of Validity of Bids:** The Hirshabelle State of Somalia shall complete evaluation of bids and award of contract within the initial period of bid validity so that extensions are not necessary. An extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from all bidders before the expiration date.

4.24.14 **Post-qualification of Bidders:** If bidders have not been prequalified, the Hirshabelle State of Somalia shall determine whether the bidder whose bid has been determined to offer the lowest evaluated price and substantially responsive bid has the capability and resources to effectively carry out the contract as offered in the bid. The criteria to be met shall be set out in the bidding documents, and if the bidder does not meet them, the bid shall be rejected. In such an event, the Hirshabelle State of Somalia shall make a similar determination and also confirm eligibility of the next-lowest evaluated bidder. If bidders have been prequalified, the Hirshabelle State of Somalia shall request an update of the information provided at the time of pre-qualification, and shall verify if the lowest evaluated bidder still meets the pre-qualification criteria.

4.24.15 **Award of Contract:** The Hirshabelle State of Somalia shall award the contract, within the

period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated price. A bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the SBD or otherwise to modify the bid as originally submitted.

4.24.16 Publication of the Award of Contract: After the award of contract, the Hirshabelle State of Somalia shall post the results, identifying the procurement, the name of the winning bidder and the price, duration, and summary scope of the contract at the same site that hosted the GPN and SPN. The same information shall be sent to all bidders who have submitted bids. The posting at the SPN websites shall be done monthly. The posting shall be in a format of a summarized table covering the previous period. All such postings shall be in English and at the discretion of the Hirshabelle State of Somalia, may also be in Somali.

4.24.17 Rejection of All Bids: The SDBs usually provide that the Hirshabelle State of Somalia may reject all bids. Rejection of all bids is justified when there is lack of effective competition, bids are not substantially responsive or when bid prices are unreasonable or are substantially higher than the Hirshabelle State of Somalia's budget for the Project. Lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid if the bid was satisfactorily advertised and prices are reasonable in comparison to market values. The Hirshabelle State of Somalia may, after approval by the Procurement Committee, reject all bids. If all bids are rejected, the Hirshabelle State of Somalia shall review the causes justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids. If the rejection of all bids is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the bids being non-responsive, new bids may be invited from the initially prequalified firms, or with approval of Hirshabelle State of Somalia from only those that submitted bids in the first instance. All bids shall not be rejected and new bids invited on the same bidding and contract documents solely for the purpose of obtaining lower prices.

4.24.18 Debriefing: The SDBs may specify that any bidder who wishes to ascertain the grounds, on which its bid was not selected, may request an explanation from the Hirshabelle State of Somalia. The Hirshabelle State of Somalia shall promptly provide an explanation of why such bid was not selected, either in writing and/or in a debriefing meeting, at the option of the Hirshabelle State of Somalia. The requesting bidder shall bear all the costs of attending such a debriefing.

4.25 Other Methods of Procurement

4.25.1 This Sub-Section describes, in descending order of preference, the methods of procurement that can be used where Competitive Bidding would not be the most economic and efficient method

of procurement, and where other methods are deemed more appropriate. Contracts shall not be divided into smaller units in order to make them less attractive for Competitive Bidding procedures.

4.25.2 Limited Bidding: Limited Bidding (“LB”) is essentially Competitive Bidding by direct invitation without open advertisement. It may be an appropriate method of procurement where (a) there are only a limited number of suppliers, or (b) other exceptional reasons may justify departure from full Competitive Bidding procedures. Under LB, the Hirshabelle State of Somalia shall seek bids from a list of potential suppliers or contractors broad enough to assure competitive prices, such list to include all suppliers or contractors when there are only a limited number. In all respects other than advertisement, Competitive Bidding procedures shall apply, including the publication of the contract award as indicated in this Procurement Procedures Manual.

4.25.3 Shopping: Shopping is a procurement method based on comparing price quotations obtained from several suppliers (in the case of goods) or from several contractors (in the case of “works”), with a minimum of three (3), to assure competitive prices, and is an appropriate method for procuring readily available off the shelf goods or standard specification commodities of small value, or simple “works” of small value. Shopping may be used when a contract has an estimated value of Ten Thousand United States Dollars (US \$10,000) or less. Requests for quotations shall indicate the description and quantity of the goods or specifications of works or non-consultant services, as well as desired delivery (or completion) time and place. Quotations may be submitted by letter, facsimile or electronic means. The evaluation of quotations shall follow the same principles as Competitive Bidding. The terms of the accepted offer shall be incorporated in a purchase order or brief contract.

4.25.4 Sole and Single Sourcing: Sole and Single Sourcing is contracting without competition and may be an appropriate method under one or more of the following circumstances:

(a) An existing contract for goods, works or non-consultant services, awarded in accordance with procedures acceptable to Hirshabelle State of Somalia, may be extended, within reasonable limits, for additional goods, works or non-consultant services of a similar nature. Hirshabelle State of Somalia shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable. Provisions for such an extension, if considered likely in advance, shall be included in the original contract.

(b) Standardization of equipment or spare parts, to be compatible with existing equipment, may justify additional purchases from the original supplier. For such purchases to be justified, the original equipment shall be suitable, the number of new items shall generally be less than the existing number, the price shall be reasonable, and the advantages of another make or source of equipment shall have been considered and rejected on grounds acceptable to Hirshabelle State of Somalia.

(c) The required equipment is proprietary and obtainable only from one source.

(d) The contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee.

(e) In exceptional cases, such as in response to natural disasters.

(f) The value of the contract is five hundred United States Dollars (US \$500) or less. **Under no circumstance shall this method be used to purposefully split requirements into smaller multiple procurement in order to fall within this threshold.**

4.25.5 Force Account: Force Account, that is, construction by the use of the government's own personnel and equipment, may be the only practical method for constructing some kinds of works. A government-owned construction unit that is not legally, operationally and financially autonomous shall be considered a force account unit. "Force account" is otherwise known as "direct labor," "departmental forces," or "direct work." The use of Force Account may be justified where:

(a) quantities of work involved cannot be defined in advance; works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices;

(b) work is required to be carried out without disrupting ongoing operations;

(c) risks of unavoidable work interruption are better borne by the Hirshabelle State of Somalia than by a contractor; or

(d) there are emergencies needing prompt attention.

4.25.6 Inspection Agents: Pre-shipment inspection and certification of imports is one of the safeguards for the Hirshabelle State of Somalia. The inspection and certification usually covers quality, quantity, and reasonableness of price. Imports procured through Competitive Bidding procedures shall not be subject to price verification, but only verification for quality and quantity. However, imports not procured through Competitive Bidding may additionally be subjected to price verification. The inspection agents ordinarily are paid for on a fee basis levied on the value of the goods. Costs for certification of imports shall not be considered in the evaluation of bids under Competitive Bidding and the cost of this certification shall be paid separately by the Hirshabelle State of Somalia.

4.25.7 Procurement of Commodities: Market prices of commodities, such as grain, animal feed, cooking oil, fuel, fertilizer, and metals, fluctuate depending upon the demand and supply at any particular time. Many are quoted in established commodity markets. Procurement often involves multiple awards for partial quantities to assure security of supply and multiple purchases over a period of time to take advantage of favorable market conditions and to keep inventories low. A list of prequalified bidders may be drawn up to whom periodic invitations are issued. Bidders may be invited to quote prices linked to the market price at the time of or prior to the shipments. Bid validities shall be as short as possible. SBDs may permit submission by electronic means. In such cases either no bid security is required or standing bid securities will have been submitted by prequalified bidders that are valid for a specified period of time. Standard contract conditions and

forms consistent with market practices shall be used.

4.26 Bid Evaluation

4.26.1 Appointment of Bid Evaluation Panel. The bid evaluation for a procurement shall be undertaken by a Bid Evaluation Panel (BEP) which has been specifically appointed for each particular procurement. The BEP shall have at least 3 members but no more than 5 members. The BEP may have members selected from the Procurement Department, the Finance Department, the End User department and an outside independent member. Selection of BEP members will start well in advance of the Bid closing date and it will be undertaken by the Procurement Director in consultation with the Permanent Secretary. The Procurement Director will propose the selection of the BEP members to the Procurement Committee for their authorization. Once authorised the Procurement Director will then appoint the BEP members. Hirshabelle State of Somalia civil servants will not be paid any additional pay above their normal salary. External consultants, if used will be procured and paid as per the Individual Consultant procurement procedure.

4.26.2 Bid Evaluation Panel Procedures. The BEP members and anyone else who is involved with the evaluation, such as the Procurement Director, shall all sign the Confidentiality Agreement prior to starting work on the evaluation - see Attachment 2. The bidding documents and the work of the BEP shall all take place in a secure room which is locked after hours. Evaluation of the Bids shall be undertaken by each BEP member independently in the secure room, and then they will discuss their results to obtain consensus. Only the evaluation and Qualification criteria stated in the Bid Documents shall be used to undertake the evaluation. On completion the BEP will write up a Bid Evaluation Report which shall detail each step of the evaluation, and the reasons for all decision and a recommendation of award for the winning bidder that shall be the lowest cost evaluated bid (that is the lowest cost bid from the bids that have satisfied all the requirements of the Bid Documents).

5. CONDUCT AND ADMINISTRATION OF PROCUREMENT FOR CONSULTANTS AND CONSULTANT SERVICES - WHERE IT DIFFERS FROM SECTION 4

5.1 Introduction

5.1.1 Section 5 of this Procurement Policy Manual sets forth the principles, rules, and procedures generally applicable to the procurement of consultants and non-consultant services awarded and/or funded by the Jubbaland State Somalia (Hirshabelle State of Somalia) including with funds provided by any international Donor that are processed through the Hirshabelle State of Somalia Treasury Single Account. **Note that unless specifically detailed in Section 5, all procurement practices are as Section 4.**

5.1.2 For the purpose of this Procurement Procedures Manual, the term *Consultants* includes a wide variety of entities, including consulting firms, engineering firms, construction managers, project and program managers, management firms, inspection agents, auditors, investment and merchant banks, universities, research institutions, nongovernmental organizations, and individuals. Consultants assist in a wide range of activities such as policy advice, institutional reforms, management, engineering services, construction supervision, financial services, procurement services, and social and environmental studies.

5.2 General Considerations

5.2.1 As per Section 4.2 including (a) to (e). Special attention is brought to the Hirshabelle State of Somalia **Guiding Principle that it shall "Conduct all activities with the highest levels of integrity, in a fair and transparent manner with an obvious lack of any corrupt practices."**

5.2.2 The Hirshabelle State of Somalia considers that, in the majority of cases, these considerations can best be addressed through competition among qualified firms in which the selection is based on the quality of the proposal and the price of the services to be provided. Sub-Sections 5.14-5.17 of this Procurement Procedures Manual describe the different methods of selection of consultants and the circumstances in which they are appropriate. Since Quality and Cost Based Selection (QCBS) is the most commonly recommended method, Sub-Section 5.14-5.16 of this Procurement Procedures Manual describes in detail the procedures for QCBS. However, QCBS is not the most appropriate method of selection for all cases; therefore, Sub-Section 5.18 describes other methods of selection and the circumstances in which they are more appropriate.

5.3 Applicability

5.3.1 The consultant services to which Section 5 of this Procurement Procedures Manual apply are of an intellectual and advisory nature. This section of the Procurement Procedures Manual does not apply to other types of services in which the physical aspects of the activity predominate (for example, operation and maintenance of facilities or plants, surveys, exploratory drilling, aerial photography, satellite imagery, and services contracted on the basis of performance of measurable physical output).

5.4 Conflict of Interest

5.4.1 The same Conflicts of Interest of Section 4 apply, with the additions below. Consultants shall provide professional, objective, and impartial advice and at all times hold the interests of the Hirshabelle State of Somalia paramount, without any consideration for future work, and in providing advice consultants shall avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Hirshabelle State of Somalia. Without limiting the generality of the forgoing, consultants shall not be hired under the circumstances set forth below:

(a) **Conflict among consultant assignments:** Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired by Hirshabelle State of Somalia or another donor to prepare engineering design for an infrastructure Project generally should not be engaged to prepare an independent environmental assessment for the same Project. Similarly, consultants hired to prepare a Terms of Reference (TOR) for an assignment shall not be hired for that assignment.

(b) The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consultant or other activities that conflict with the interest of the Hirshabelle State of Somalia under the contract. The contract shall include provisions limiting future engagement of the consultant or other services resulting from or directly related to the firm's consultant services in accordance with the requirements of this Procurement Procedures Manual.

5.5 Unfair Competitive Advantage

5.5.1 Consultants (and sub-consultants) or their affiliates competing for a specific assignment shall not derive an unfair competitive advantage from having provided consultant services related to the assignment in question. To that end, the Hirshabelle State of Somalia shall make available to the consultants, together with the Request for Proposal (RFP), all information that would give a consultant an unfair competitive advantage. If the Hirshabelle State of Somalia, determines that it is inappropriate or impractical to release information sufficient to cure a potential unfair advantage, the consultant with the potentially unfair advantage may be disqualified for purposes of the particular procurement.

5.6 Eligibility

5.6.1 As per Section 4 with the following additions or exceptions:

- (a) As an exception government-owned universities or research centers may participate.
- (b) Government officials and civil servants may only be hired under consultant contracts, either as individuals or as members of a team of a consultant firm, if they (i) are on leave of absence without pay; (ii) are not being hired by the agency they were working for immediately before going on leave; and (iii) their employment would not create a conflict of interest.

5.7 Associations between Consultants

5.7.1 Consultants may associate with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise, strengthen the technical responsiveness of their proposals and make available bigger pools of experts, provide better approaches and methodologies, and, in some cases, offer lower prices. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. If the Hirshabelle State of Somalia employs an association in the form of a joint venture, the association

should appoint one of the firms to represent the association; and all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment. Short-listed firms may form a joint venture or sub-consultancy.

5.8 Review, Assistance and Monitoring

5.8.1 The Hirshabelle State of Somalia is responsible for supervising the performance of the consultants and ensuring that they carry out the assignments in accordance with the contract. Hirshabelle State of Somalia shall monitor the work as necessary to satisfy itself that it is being carried out according to appropriate standards and is based on acceptable data. If a significant portion of Project preparation work is being carried out in the consultants' home offices, Hirshabelle State of Somalia staff may, with advance approval, visit these offices to review the consultants' work.

5.9 Training or Transfer of Knowledge

5.9.1 If the assignment includes an important component for training or transfer of knowledge to the Hirshabelle State of Somalia staff or national consultants, the Terms of Reference shall indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant's contract and in the budget for the assignment.

5.10 Terms of Reference

5.10.1 The Hirshabelle State of Somalia shall be responsible for the Terms of Reference (TOR) for the assignment. The TOR shall be prepared by an implementing person(s), or a firm specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget as approved by Procurement Committee in the Procurement Plan. The TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. The TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys). However, the TOR should not be too detailed or inflexible, so as to prevent competing consultants from proposing their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The respective responsibilities of the Hirshabelle State of Somalia and the consultant should be defined clearly in the TOR. See Attachment 4, Guidance on Writing and Reviewing Terms of Reference, for additional guidance on preparing the TOR.

5.11 Budget

5.11.1 Preparation of a thorough and realistic budget estimate is essential if Hirshabelle State of

Somalia funding is to be managed properly. This budget should be carefully considered during the preparation of the Procurement Plan between the Hirshabelle State of Somalia's Procurement Director, Treasury Director and the appropriate Government Official representing the Department that shall benefit from the services; and should correspond to the funds available for that Department and the activity. Based on this budget, the Hirshabelle State of Somalia's Procurement Director will decide the procurement methodology to be used, which is then approved by the Procurement Committee during the approval of the Procurement Plan. Any modification of the budget or the procurement methodology after the approval of the Procurement Plan, must be approved by Procurement Committee (see Section 2 for Procedures for developing the Procurement Plan). The budget estimate shall be based on the Hirshabelle State of Somalia's assessment of the resources needed to carry out the assignment, including staff time, logistical support, and physical inputs (e.g. vehicles and equipment).

5.12 Shortlist of Consultants

5.12.1 The Hirshabelle State of Somalia may begin the procurement with an open request for proposals or consultant qualifications or, if provided for in the Procurement Plan, the Hirshabelle State of Somalia may advertise for Request for Expression of Interest (REOI). If the Hirshabelle State of Somalia advertises for a REOI, based on the review of the submissions, it may prepare a short-list and invite only short-listed firms or individuals to submit proposals or qualifications as appropriate for the selection procedure chosen for the particular procurement. When the Hirshabelle State of Somalia chooses to begin a procurement with a short listing procedure, the Hirshabelle State of Somalia is responsible for preparation of the short list. There is no maximum limit to the number of firms that may be short-listed and care should be taken not to eliminate qualified participants from competing for the consultant contract. Consideration must be given to all firms or organizations – national and international – expressing interest and possessing the relevant qualifications. The method for developing a short list shall be fair and objective according to the criteria pre-announced in the REOI.

5.13 Preparation and Issuance of Requests for Proposals

5.13.1 The Request for Proposals (RFP) shall include (a) a Letter of Invitation (LOI); (b) Instructions to Consultants (ITC) together with a proposal data sheet; (c) a description of the qualifications and evaluation criteria to be used in considering the proposals received; (d) forms to be used to prepare both the technical and financial proposals; (e) contract forms; and (f) the Terms of Reference. The Hirshabelle State of Somalia shall use the SBDs for Consulting Services as may be modified to address Project-specific conditions, subject to Procurement Committee approval when the change is material. The Hirshabelle State of Somalia may use an electronic system to distribute the RFP, provided that Hirshabelle State of Somalia is satisfied with the adequacy of such system. If the RFP is distributed electronically, the electronic system shall be secure to avoid

modifications to the RFP and shall not unfairly restrict the access of consultants to the RFP. When the SBDs are not appropriate (for example, for pre-shipment inspection and procurement services), the Hirshabelle State of Somalia shall use other acceptable contract forms.

5.14 Quality and Cost Based Selection

5.14.1 The main selection Methodology to be used by the Hirshabelle State of Somalia for Consultant firms shall be Quality and Cost Based Selection (QCBS) which uses a competitive process that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

5.15 Evaluation of Proposals: Consideration of Technical Quality and Cost

5.15.1 The evaluation of the proposals shall be carried out in two (2) stages: (1) technical quality and (2) cost. The Hirshabelle State of Somalia shall use a Technical Evaluation Panel (TEP) to evaluate each technical proposal. Guidance on the TEP is provided in Attachment 8. Hirshabelle State of Somalia encourages external expertise on major procurements. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation, including any required Procurement Committee reviews and approvals, is concluded. The evaluation shall be carried out in full conformity with the provisions of the RFP.

5.15.2 **Evaluation of Financial Proposals:** After the technical evaluation of quality is completed and the required reviews and approvals have been issued, the Hirshabelle State of Somalia shall inform the consultants who have submitted proposals of the technical points assigned to each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered nonresponsive to the RFP and the TOR that their financial proposals will be returned unopened after signature of the contract by the winning consultant. The Hirshabelle State of Somalia shall simultaneously notify the consultants that have secured at least the minimum qualifying mark of the date, time, and place set for opening the financial proposals and notify them that their attendance at the opening of the financial proposals is permitted but is not mandatory. Based upon the financial proposal opening date, unavoidable constraints may allow for a very short notice to consultants to make arrangements to attend the opening of the financial proposals. The financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical points, and the proposed prices shall be read aloud and recorded. A copy of the record will be provided to all consultants whose proposals were opened.

5.15.2.1 The Hirshabelle State of Somalia shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the RFP shall require that all proposals be stated in United States Dollars. Any proposal that deviates from the

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currency requirement as stated in the RFP may be rejected as non-responsive.

5.15.2.2 For the purpose of evaluation, the financial proposals shall include or exclude local identifiable direct or indirect taxes as instructed in the RFP. The financial proposal shall include all consultants' remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The evaluation methodology to be used shall be described in the RFP.

5.15.3 **Combined Technical Quality and Price Evaluation:** The total score shall be obtained by weighting the technical quality and price scores using the methodology as described in the RFP. The firm obtaining the highest total score shall be invited for negotiations.

5.15.4 When the procurement is subject to Procurement Committee approval prior review for proposed award (See Attachment 1), the Hirshabelle State of Somalia shall furnish a combined evaluation report to the Procurement Committee for its review and approval before the Hirshabelle State of Somalia commences negotiations with the selected bidder. The combined evaluation report must contain a complete history of the procurement process culminating with a recommendation for award.

5.15.5 **Negotiations and Award of Contract:** Negotiations shall include discussions of the TOR, the methodology, staffing, inputs by the Hirshabelle State of Somalia and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the procurement process be invalidated. The final TOR and the agreed methodology shall be incorporated into the "Description of Services," which shall form part of the contract.

5.15.6 The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

5.15.7 Financial negotiations shall include clarification of the consultants' tax liability. As payments under Fixed-Price Contracts are based on work done and delivery of outputs (or products), the offered price shall include all costs (staff time, overhead, travel, hotel, etc.). Consequently, if the selection method for a Fixed-Price Contract included price as a component, this price shall not be negotiated. In the case of Time-Based Contracts, payment is based on inputs (staff time and reimbursables) and the offered price shall include staff rates and an estimation of the amount of reimbursables. When the selection method includes price as a component, negotiations of staff rates should not take place, except in special circumstances, such as when staff rates offered are much higher than rates typically charged by consultants in similar circumstances for similar contracts. Reimbursables are to be paid on actual expenses incurred at cost, subject to limitations set out in the applicable Hirshabelle State of Somalia Cost Principles, upon presentation of receipts and



therefore are not subject to negotiations. However, if the Hirshabelle State of Somalia wants to define ceilings for unit prices of certain reimbursables (like travel or hotel rates) it should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP. If the contract permits reimbursement of any costs, the reimbursement rates shall be limited by applicable Hirshabelle State of Somalia Cost Principles.

5.15.8 If the negotiations fail to result in an acceptable contract within a reasonable time, the Hirshabelle State of Somalia shall terminate the negotiations and invite the next ranked firm for negotiations. If there is no next ranked firm for the procurement, the procurement may be cancelled and rebid. The Hirshabelle State of Somalia shall consult with Procurement Committee prior to taking this step. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Hirshabelle State of Somalia shall not reopen the earlier negotiations. After negotiations are successfully completed and all required reviews and approvals have been issued, the Hirshabelle State of Somalia shall promptly notify other firms that they were unsuccessful.

5.16 Rejection of All Proposals and Re-Invitation

5.16.1 The Hirshabelle State of Somalia will be justified in rejecting all proposals only if all proposals are nonresponsive because they present major deficiencies in complying with the TOR, if they involve prices substantially higher than the original estimate, or if contracting for the services is no longer in the best interest of Hirshabelle State of Somalia. In the case of a higher price, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated in consultation with the Procurement Committee. Before all the proposals are rejected and new proposals are invited, the Hirshabelle State of Somalia shall notify the Procurement Committee, indicating the reasons for rejection of all proposals, and if required, shall obtain the Procurement Committee approval before proceeding with the rejection and the new process. The new process may include revising the RFP (including the short list) and the budget. These revisions shall be agreed upon with Procurement Committee. Within two weeks of the rejection of all proposals, the Hirshabelle State of Somalia shall post at the same site that hosted the SPN notification of the cancellation of the procurement. The notification shall identify the procurement and state briefly the reasons for cancellation. The same information shall be sent to all those who have submitted proposals. All such postings shall be in English and at the discretion of the Hirshabelle State of Somalia may also be in Somali.

5.17 Confidentiality

5.17.1 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals, or to other persons not officially concerned with the process, except as provided in this Procurement Procedures Manual.

5.18 Other Methods of Selection

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5.18.1 **General:** This Sub-Section describes the selection methods other than QCBS, and the circumstances under which they are acceptable. All the relevant⁴ provisions of Section 5 shall apply whenever competition is used.

5.18.2 **Quality Based Selection:** Quality Based Selection (QBS) may be appropriate for the following types of assignments:

- (a) complex or highly specialized assignments for which it is difficult to define precise TORs and the required input from the consultants, and for which the Hirshabelle State of Somalia expects the consultants to demonstrate innovation in their proposals;
- (b) assignments that have a high downstream impact and in which the objective is to have the best experts; and
- (c) assignments that can be carried out in substantially different ways, such that proposals will not be comparable.

5.18.3 In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two (2)-envelope system). The procurement shall be advertised according to the requirements set out in this Procurement Procedures Manual and may, at the discretion of the Hirshabelle State of Somalia, be preceded by a short listing procedure. The RFP may provide either, but never both, the estimated price budget or the estimated level of effort of key staff.

5.18.4 If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Hirshabelle State of Somalia shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Hirshabelle State of Somalia and the consultant shall then negotiate the financial proposal and the contract. All other aspects of the selection process shall be identical to those of QCBS, including the publication of the award of contract as described in the Procedures. If consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in as in QCBS to ensure that, after the negotiations are successfully concluded, the financial proposal of only the selected firm is opened and the rest are returned unopened.

5.18.5 **Selection under a Fixed Budget:** The Selection under a Fixed Budget (FBS) method is appropriate when the assignment can be precisely defined. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals, which stay within the budget, in separate envelopes. The TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

5.18.6 **Least-Cost Selection:** The Least Cost Selection (LCS) method is appropriate for selecting

⁴All provisions of Section 5 shall be applied with the modifications and suppressions required by the method for selecting consultants used in the specific case. Advertisement is not required when single source selection is used.

consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, etc.) where well established practices and standards exist. This method shall not be used as a substitute for QCBS and shall be used only for the specific cases of procurements that are of a very standard and routine technical nature where the intellectual component is minor. Under this method, a "minimum" qualifying mark for the "quality" of 70 points or higher is established. Proposals, to be submitted in two (2) envelopes, are invited. The procurement shall be advertised according to the requirements set out in this Procurement Procedures Manual and may, at the discretion of the Hirshabelle State of Somalia, be preceded by a short listing procedure. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark are rejected, and the financial proposals of the rest are opened in public. The firm with the lowest price shall then be selected and the publication of the award of contract. Under this method, the minimum qualifying mark shall be established, understanding that all proposals above the minimum compete only on "price." The minimum qualifying mark shall be stated in the RFP.

5.18.7 Individual Consultants: Individual consultants whose contracts will have a value above the 1,000 USD threshold are employed on assignments for which (a) teams of personnel are not required, (b) additional outside (home office) professional support is not required, and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm. Individual consultants are selected on the basis of their qualifications for the assignment. The procurement shall be advertised according to the requirements set out in this Procurement Procedures Manual and may, at the discretion of the Hirshabelle State of Somalia, be preceded by a short listing procedure. Consultants shall submit proposals and are selected through evaluation for suitability before the Financial Proposal is considered and shall be the best qualified and be fully capable of carrying out the assignment. Capability is judged on the basis of evidence of knowledge and past experience relevant to the services to be provided and past performance based upon references and recommendations

5.18.7.1 Individual consultants may be selected on a sole source basis with due justification in exceptional cases such as for: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) certain assignments with total expected duration of less than six (6) months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

5.18.8 Single Source Selection: Single Source Selection (SSS) of consultants does not provide the benefits of competition with regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single source selection shall be used only in exceptional cases. Single source selection may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by

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the firm, (b) in emergency cases, such as in response to disasters and for consultant services required during the period of time immediately following the emergency, (c) for assignments of small value or of short duration, or (d) when only one (1) firm is qualified or has experience of exceptional worth for the assignment.

5.19 Continuity

5.19.1 When continuity for downstream work is essential, the initial RFP shall outline this prospect, and if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the Hirshabelle State of Somalia shall ask the initially selected consultant to prepare technical and financial proposals on the basis of the TOR furnished by the Hirshabelle State of Somalia, which shall then be negotiated.

5.19.2 If the initial assignment was not awarded on a competitive basis or if the downstream assignment is substantially larger in value, a competitive process acceptable to Hirshabelle State of Somalia shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. Hirshabelle State of Somalia will consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

6. TYPES OF CONTRACTS AND IMPORTANT PROVISIONS

6.1 Fixed-Price Contract

6.1.1 Fixed-Price Contracts ("Fixed-Price Contract") may take various forms such as lump sum, unit price and percentage fees. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, the cost of the goods procured or inspected or other measure of service such as the amount of funds disbursed. Fixed-Price Contracts are easier to administer than Time-Based Contracts because payments are due on clearly specified outputs.

6.2 Time-Based Contract

6.2.1 The Time-Based Contract ("Time-Based Contract") is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices.

6.3 Reimbursable-Cost Contract

6.3.1 Reimbursable-cost contracts are acceptable to Hirshabelle State of Somalia only in exceptional circumstances such as conditions of high risk or where costs cannot be determined in

advance with sufficient accuracy.

6.4 Percentage Contract

6.4.1 Percentage Contracts (“Percentage Contract”) are commonly used for architectural services. Percentage Contracts directly relate the fees paid to the consultant to the estimated or actual Project construction cost. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitively bid. It should be borne in mind that in the case of architectural or engineering services, Percentage Contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services.

6.5 Indefinite Delivery and Indefinite Quantity Contract

6.5.1 Indefinite Delivery and Indefinite Quantity (IDIQ) contracts are used when the Hirshabelle State of Somalia requires goods, simple works, and/or services for which delivery and quantity cannot be defined in advance. The IDIQ contract is normally for a period of a year or more.

6.6 Requirements and Blanket Purchase Agreement Contracts

6.6.1 The Hirshabelle State of Somalia may use these contract types for reoccurring needs.

7. SUBCONTRACTING

7.1.1 If/when subcontracting for goods, works, consultant or non-consultant services the contractor, supplier or consultant shall follow the fundamental procurement principles as described in detail in Section 4 above of this manual.

7.1.2 Thus every contract or subcontract for goods, works, consultant, or non-consultant services shall require the contracting parties to follow the fundamental procurement principles promoting transparency, openness, competition and fairness to the maximum extent possible, and remaining consistent with the objectives and requirements of the contract.

7.1.3 Any contractor or subcontractor planning to subcontract for a major item or section (more than 20%) of goods, works, consultant, or non-consultant services shall seek Hirshabelle State of Somalia’s prior written approval before appointment of the subcontractor.

8. ELIGIBILITY VERIFICATION PROCEDURES

8.1 Introduction

8.1.1 This Section sets out procedures for performing eligibility verification procedures during the evaluation of bids and proposals for Hirshabelle State of Somalia program procurements.

8.2 World Bank Debarred List

8.2.1 A firm declared ineligible by The World Bank for any reasons, including in accordance with The World Bank Group anti-corruption policies, shall be ineligible to be awarded an Hirshabelle State of Somalia contract during the period of time that the firm is sanctioned by The

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World Bank. In addition, any person that has been blacklisted by The World shall also be ineligible to be awarded an Hirshabelle State of Somalia funded contract.

8.2.2 The Hirshabelle State of Somalia shall recognize as ineligible any firm listed on any of the following:

World Bank Debarred List:

<http://web.worldbank.org/external/default/main?contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984&querycontentMDK=64069700&theSitePK=84266>

9.0 Entry into Force

9.1 This Regulation is deemed to have entered into force on date issued of **31/03/2018**

Mr. Mohamed Mohamud Abdulle

Minister of Finance and Economic Development

Hirshabelle State of Somalia

Attachment 1. Approval Requirements

Goods, Works, Consultancy and Non Consultancy Services			
Procurement Activity /Procedure/Method	Decision	Level of Approval / USD Threshold	
		Hirshabelle State of Somalia Director of Procurement	Procurement Committee
Procurement Plans	Create/Amend	All	All
Pre-qualification	Pre-qualification documents and advertising procedures	All	Above 10,000USD
	Report with proposed list of entities qualified	All	Above 10,000USD
Competitive Bidding	Issuance of Documents	All	Above 10,000USD
	Report with proposed list of entities qualified	All	Above 10,000USD
Limited Bidding	Issuance of Documents	All	Above 10,000USD
	Report with proposed list of entities qualified	All	Above 10,000USD
Shopping	Issuance of Documents	All	n/a
	Report with proposed list of entities qualified	All	n/a
Single or Sole Source	Issuance of Documents	All	Above 10,000USD
	Report with proposed list of entities qualified	All	Above 10,000USD

Attachment 2. Sample Technical Evaluation Panel Confidentiality Agreement

NOTE: Confidential information shall not be disclosed to any member of the evaluation panel or anyone seeing or reviewing the reports from the panel until they agree to execute and be bound by the terms of a Confidentiality Agreement.

EVALUATION PANEL CONFIDENTIALITY AGREEMENT

Hirshabelle State of Somalia: _____
PROJECT NAME: _____
PROCUREMENT NO.: _____

I hereby affirm, under penalty of law that I will comply with the following:

I agree to participate in the evaluation of the above-mentioned procurement. I confirm that I have taken the appropriate steps to familiarize myself with the information available to date concerning this procurement. I shall execute my responsibilities on this evaluation committee honestly and fairly.

I do not have any affiliation with any of the parties submitting a proposal for this procurement. To the best of my knowledge and belief, neither I nor my spouse, dependent child, general partner, or any organization which I am serving as an officer, director, trustee, general partner, or employee, or any person or organization with whom I am negotiating or have an arrangement concerning prospective employment, has a financial or other outside interest that can be affected by any decision I make on this procurement.

To the best of my knowledge, my spouse, dependent child, general partner, or any organization which I am serving (or have served within twelve months from the date of this declaration) as an officer, director, trustee, general partner, or employee, or any person or organization with whom I am negotiating or have an arrangement concerning prospective employment are not parties to and do not represent a party who has an interest in the matter.

I also acknowledge my responsibility to disclose the acquisition of any financial or other outside interest as described above that would be affected by any action I may take on this procurement and to disclose any financial or other outside interest I, or anyone noted above, has in any organization that is competing for award of this procurement.

I agree to hold in trust and confidence any information or documents ("confidential information") disclosed to me or discovered by me or prepared by me in the course of or as a result of the evaluation of this procurement and agree that it shall be used only for the purposes of the evaluation of this procurement and shall not be disclosed to any third party. I also agree not to retain copies of any written information or prototypes supplied to me or created by me.

NAME	
SIGNED	
DATE	

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Attachment 3. Sample Procurement Plan and Amendment Form

**SAMPLE ONLY
PROCUREMENT PLAN FOR PERIOD 1ST JULY 2016 TO 31ST DECEMBER 2016**

ID	Description	Budgeted Amount (In USD)	Procurement Procedure	Planned Dates		
				Issue Bidding Documents	Bid closing	Contract Award
	GRAND TOTAL	GRAND TOTAL				
1	Procurement of Goods	CATEGORY TOTAL				
1.2	IT EQUIPMENT	Sub-Total				
	Project A	Budget	CB			
	Desktop Computers, Laptops, Software, and Peripherals					
1.3	OFFICE EQUIPMENT, SUPPLIES AND FURNITURE	Sub-Total				
	Program Administration					
	Office Furniture	Budget	S			
2	Procurement of Field Activities, Designs, Feasibility and Environmental Studies, and Consultants	CATEGORY TOTAL				
2.1	FIRMS	Sub-Total				
	Project A					
	Supervision of Rural and urban zones Cadastral Survey	Budget	QCBS			
	Radio and Television Campaign for Communication Strategy	Budget	CQS			
2.2	INDIVIDUALS	Sub-Total				
	Project A					
	Capacity Building					
	Design of TOR for "Construction of multi-office complex"	Budget	CQS			

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Regulation on Establishing the BCS for Budget Preparation & Execution

3	Procurement of works/construction	CATEGORY TOTAL	
Project B	Infrastructure for Demonstration Farms	Sub-Total Budget	CB
Program Administration	Office Building, Conditioning/ Refurbishing	Sub-Total Budget	S
4	Non-Consultant Services	CATEGORY TOTAL	
Project A	Demarcation and Sign Installation of Protected Areas	Sub-Total Budget	S
Project B	Non Consultant Services for Planting True Forest Plantations	Sub-Total Budget	CB

CB = Competitive bidding; CQS = Selection based on consultant qualification; QCBS = Quality & Cost based selection; S=Shopping; SSS= Single-Source Selection

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SAMPLE AMENDMENT FORM

Amendment to Procurement Plan Request Form*		
Procurement # and Description	Amendment Request	Estimated Total Change (USD)
<i>Procurement identification number (if necessary) and description</i>	<i>Description of what is being requested in terms of change to the Procurement Plan (i.e., additional procurement, change in procurement method, change in budget amounts, change of planned dates etc.).</i>	<i>Value, in USD, of procurement change being requested. Used to determine overall, estimated cost impact of requested amendment</i>
Justification		
1) <i>First justification for amending the Procurement Plan</i>		
2) <i>Second justification for amending the Procurement Plan (if applicable)</i>		

*This form must be submitted as an attachment to the amended Procurement Plan.

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Attachment 4. Guidance on Writing and Reviewing a Terms of Reference

This attachment provides guidance to the Hirshabelle State of Somalia on developing Terms of Reference (TOR) in accordance with the Section 5 of this Procurement Procedures Manual.

Purpose and Function of the Terms of Reference

In the TOR, the Hirshabelle State of Somalia describes in detail the consultant services it needs to procure. The TOR is the document that provides the substance to the Request for Proposals (RFP). The following points should be considered when developing a TOR:

State the objective or purpose of the procurement:

- Describe very clearly what services the Hirshabelle State of Somalia wishes to procure and for what purpose.
- Provide as much information as possible to describe the Hirshabelle State of Somalia's vision of the assignment.
- Consider that the TOR is going to be read by outsiders who have little or no knowledge of the Project but are expected to propose a methodology and price for undertaking the assignment based on the information provided in the TOR.
- Do not be too "prescriptive" in the TOR (including using restraint in defining the staffing requirements) in order to allow and encourage consultants to propose their own methodologies for performing the services and providing the deliverables.

Provide a clear description of the background and context:

- Ensure that the context of the TOR is described so that a consultant can easily understand it. Emphasize how this contract fits into the overall program; why the proposed assignment is important for the Project.
- Describe the history of the Project and the tasks already completed, if applicable.
- Describe how work carried out under this contract is linked and sequenced with work done by other consultants. Be explicit about required coordination with other consultants, contractors or government institutions.
- Identify other donors that are involved in the Project or could have an impact on the assignment.
- Include, when appropriate, an annotated list of the institutions that the consultant will be supporting or interfacing with, so that the consultant can clearly understand the interactions and the full Project. Explain the relationships within and among these institutions for purposes of delivery of the services being supported. Do not assume that the consultant will intuitively know or understand this.
- Include any publicly available studies or references (Hirshabelle State of Somalia guidance papers, externally prepared documents, etc.) relevant to the work to be done. Provide a list of special studies and documents that will be made available to the selected consultant.
- If the procurement includes associated goods, include a description of the goods and the performance standards or functions to be achieved through the purchase of the goods. Be sure that the technical specifications accurately reflect the minimum requirements and do not favour a certain brand or unfairly discriminate against certain brands.

Clearly describe deliverables and required resources:

- Ensure that tasks are clearly described and numbered, and deliverables are explicitly stated. Ensure that the proposed deliverables are within the approved work plan and the scope of the activities.
- Include a time period for the performance of the service and an anticipated timeline for submission of deliverables by the consultant. Where comments on interim deliverables are to be provided by the Hirshabelle State of Somalia or decisions are to be taken by the Hirshabelle State of Somalia affecting further work of the consultant, indicate such requirements and the timeframe for Hirshabelle State of Somalia inputs.
- Be precise in defining those deliverables for which precise parameters are required (e.g., special surveys, mapping).
- Include, if appropriate, a clear estimate of the amount of staff time, stated in workdays or work-months, needed to perform the needed services.
- Include, when appropriate, the required staff needed and key personnel positions.
- Include, when appropriate, the required staff qualifications, especially for key personnel.
- Describe the language requirements during contract performance such as the language needs for staffing the working environment, giving oral presentations, and delivering interim and final reports.
- Describe types and numbers of reports to be produced, special formats, and software requirements (e.g., Excel spreadsheets, AutoCAD drawings).
- Define what the Hirshabelle State of Somalia will provide to support the assignment, *for example*, counterparts, office space, phone, Internet connection, and printing.

Special guidance for procurement of Monitoring and Evaluation services:

- Clearly identify any data collection requirements: what data are needed; how frequently it should be collected; which units and definitions are to be used for indicators; and what measures or mechanisms should be employed to safeguard quality of data.
- Describe reporting format (such as electronic file type, software to be used, hard copy, etc.) so that those involved with monitoring and evaluation can aggregate reporting and data collected across implementers.
- Describe, where relevant, the impact evaluation methodology to be used and any accommodations that would be needed in order to conduct the impact evaluation, such as the phasing of service delivery roll-out or the intake of beneficiaries.

Editing:

- Spell check and proof read.
- When required, ensure adequate translation of documents into English or Somali.

Attachment 5a. Sample General Procurement Notice

SAMPLE GENERAL PROCUREMENT NOTICE (GPN)

The Federal Member State Hirshabelle State of Somalia intends to apply budget funds to payments for Contracts for Goods, Works and Services.

The procurement program for the next six months will include the following:

Procurements for [Specify] Half of [Year] Estimated Value – [Dollar Amount]
Procurement of Goods] to include:
* IT hardware, data transmission systems and software
* Imagery for cadastral mapping
* Office Furniture and general office supplies
* Motorbikes
* Other assorted vehicles
* Equipping credit bureaus, risk analysis and rating agencies
Procurement of Works to include:
* Rehabilitation of existing office building structures
* Site layout and construction of new administrative buildings of various sizes
* Archival system
* Installation of satellite data transmission system.
Procurement of Services (to include Consultant Services) to include:
* Services to modernize and decentralize land management, including creation of relevant information systems and software.
* Agricultural training program on raising and maintaining dairy livestock.
* Technical assistance organizing strategic communication and information campaigns for promotion of objectives in all sectors.
* Short and long term legal consulting.
* Short term feasibility study of National Land Tenure Funds.
* Technical studies on land management operations and facilities.
* Technical assistance to [Country's] financial institutions.
* Consultants for general finance sector capacity building.
* Architectural design, site design and environmental assessment work.
* Technical assistance for agricultural business plan development.
* Agricultural market, value chain and investment studies.
* Capacity building in preparation for, and technical assistance in implementing, Monitoring and Evaluation data collection and survey work.
* Training on Monitoring and Evaluation procedures manual.
* Design and implementation of Monitoring and Evaluation database software and MIS.
* Organization of agricultural fairs and trade shows.
* Technical assistance in [local crop] production.

Contracts for Goods, Works and Services financed under the program will be implemented according to the principles, rules and procedures set out in the Hirshabelle State of Somalia Public Procurement Procedures Manual which can be found at the Hirshabelle State of Somalia's website.

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The Procurement is open to all bidders from eligible source countries as defined in the Hirshabelle State of Somalia Program Procurement Procedures Manual.

Interested eligible contractors and consultants who wish to be included on the mailing list to receive a copy of advertisements, or those requiring additional information, should contact:

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Attachment 5b. Sample Specific Procurement Notice

SPECIFIC PROCUREMENT NOTICE (SPN) TEMPLATE 1 (Consultants)

Procurement Name: _____
Project Name (if applicable): _____
Type of Procurement: Request for Proposals (RFP)
RFP Reference No.: _____

General Information

Country: _____ City/Locality: _____
Notice/Contract Number: _____ Publication Date: _____
Deadline: _____

The Federal Member State Hirshabelle State of Somalia has received Donor [deleted the words "received Donor" if funding entirely from Hirshabelle State of Somalia sources] funding of [insert Dollar Amount] and it intends to apply part of the funds to payments for Contracts for Consultant Services.

Main Text:

[Brief summary of the Donor funding agreement, if any]

[3-6 paragraph description of the specific procurement]

Please see the following websites for the complete Request for Consultant Proposals (RFP) including the Letter of Invitation (LOI) and Terms of Reference (TOR):

Alternatively, please contact: ___ [insert] _____ to receive a copy of the complete RFP including the LOI and the TOR.

Consultant submissions should make reference to RFP Reference No. and the Procurement Name and must be received no later than [insert] _____ by [time] _____ local time at the following address:

Address for Submissions:

Address: _____ City: _____
Country: _____ Telephone: _____
Email: _____

**SPECIFIC PROCUREMENT NOTICE (SPN)
TEMPLATE 2 (Goods, Works and Services)**

Procurement Name: _____

Project Name (if applicable): _____

Type of Procurement: (Goods/Works/Services - delete as appropriate)

Invitation for Bids (IFB) Reference No.: _____

The Federal Member State (Hirshabelle State of Somalia) has received Donor [deleted the words "received Donor" if funding entirely from Hirshabelle State of Somalia sources] funding of [insert Dollar Amount] and it intends to apply part of the funds to payments for Goods, Works and Services.

Main Text:

[Brief summary of the Donor funding agreement, if any]

[3-6 paragraph description of the specific procurement]

Please see the following websites for the complete Bidding documents.

Alternatively, please contact: ___[insert]_____ to receive a copy of the complete bidding documents.

Bidder submissions should make reference to IFB Reference No. and the Procurement Name and must be received no later than [insert] _____ by [time] _____ local time at the following address:

Address for Submissions:

Address:

City:

Country:

Telephone:

Email:

Attachment 6. Guidance on the Price Reasonableness Analysis

This attachment provides guidance to the Hirshabelle State of Somalia on conducting the price reasonableness analysis.

Responsibility and Documentation

The Hirshabelle State of Somalia, is responsible for conducting the analysis. The analysis should be conducted for the potential winner of the contract during the financial evaluation of the bids/proposals. The price reasonableness analysis should be documented in the record of the procurement.

Definition and Purpose

The price reasonableness analysis is a review of the prices proposed by a contractor, supplier or consultant to ensure that the prices offered in the bids or proposals are fair to both parties considering the effort required to complete the task, the quality of the bid or proposal, and the comparability of the prices on similar projects in local and international markets. The prices are reviewed to ensure that the quoted prices of the selected contractor, supplier or consultant are neither unreasonably high (which could happen, for example, when there is a poor response to the Invitation for Bids or Request for Proposals, or collusion) nor unreasonably low (which could happen, for example, when there is severe price competition, or poorly understood description of the objective of the procurement). This analysis provides a secondary check by the Hirshabelle State of Somalia that the Hirshabelle State of Somalia funds will be utilized in a cost effective manner, and that the selected contractor, supplier or consultant will be able to meet the requirements as set out in the procurement documents.

A price reasonableness analysis is different from a cost analysis. The major difference is that a price reasonableness analysis looks at the total price while a cost analysis examines the individual cost elements of this total price. Depending upon the Project, the cost elements may vary but generally include labour rates, material costs, overhead or indirect rates, a cost of money factor, general and administrative expenses, and a profit or fee. Price reasonableness analysis is usually conducted for fixed price contracts. Cost analysis is usually conducted for reimbursable cost contracts.

Methods for Conducting a Price Reasonableness Analysis

There are several ways a price reasonableness analysis may be conducted without examining the individual components of the total price.

(a) **Competitive Prices:** In an open competitive bidding process where price is an evaluation factor and several acceptable and qualified bids or proposals are received, it can be safely assumed that the prices are reasonable as determined by the market conditions, but only if there are minimal discrepancies among the offered prices. If there are significant discrepancies between any two bids or proposals, the Hirshabelle State of Somalia should ensure that the description of the procurement is clear enough not to be misunderstood, and that there are no calculation errors.

(b) **Historical Prices:** If the prices offered are comparable to the prices offered in the past for similar contracts either by the same or other contractors, suppliers or consultants to the Hirshabelle State of Somalia, to other large government buyers, or to a donor agency in the country of the Project, then the prices can be assumed to be reasonable. When comparing current prices with historical prices, inflation and a reasonable margin for increased profits should be taken into account.

(c) **Catalogue Prices:** This method is suitable when purchasing off-the-shelf commercial goods, where the supplier is likely to have a catalogue, and the supplier is willing to provide a current, dated page from the catalogue that lists the price of the item being procured and any discounts that may be available to large buyers. In this case, the supplier may be requested to provide a reference of another large buyer.

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whether inside the country of the Project or outside, who can verify the prices that were paid by that buyer to this supplier.

(d) Published Prices: Some commercially traded commodities such as grains, petrol, or copper have international or national prices that are published in popular press. If the prices offered are the same or lower than these published prices, then it can be assumed that the prices are reasonable.

(e) Independent Estimate or Planned Budget: If an independent estimate or planned budget has been prepared by Hirshabelle State of Somalia, this independent estimate or planned budget may be used as an element for price reasonableness if considered valid and appropriate at the time of award.

(f) Comparison with Prices of a Similar Item: In the procurement of goods, if a supplier can demonstrate the prices of a similar item, and justify its price difference based on additional or different features, the Hirshabelle State of Somalia can accept the proposed prices based on these two (2) factors. The differences between the supplier's price and the price of a competitor should be detailed and justified, and the referenced prices should be available from verifiable independent sources (not only from the supplier itself).

Attachment 7. Example Best International Practice Contract File Index

(not all will be relevant for Hirshabelle State of Somalia)

Contract File Contents		Contract #	Mod. #	Description of Action:
Place document in file, separated by tabs. If document is required, place an "X" in the "IN FILE" column, or use folder identifier if there is more than one folder.				
#	DOCUMENT	IN FILE	#	DOCUMENT
	AWARD DOCUMENTATION			EVALUATION DOCUMENTATION
	Contract & Award Letters			Source Selection Plan
	Modifications and Modification Log			Notice to Late Offerors
	No Bid Documentation			Proposal Evaluation: Tech/PP/Price
	Award Distribution			Competitive Range Determination
				Notice of Exclusion from Competitive Range
#	SOLICITATION DOCUMENTATION			Clarifications/Discussions
	Solicitation Document			Request for Final Revised Proposals
	Amendment & Support Documentation			Post Negotiation Memorandum
	Supervisory Solicitation Review			Source Selection Decision
	SharePoint Entry			Debriefing Reports
				Documentation of Contract Review
	TASK & CALL ORDERS			
	Task/Call Orders and Associated Modifications			POST-AWARD DOCUMENTATION
				Unsuccessful Proposals - Separate file
#	ADMINISTRATIVE DOCUMENTATION			Separate file No.:
	Award Synopsis			Post-Award Notice to Unsuccessful Offerors
	Subcontracting Plan/Reports			Successful Proposal (s)
	Post-Award Conference Documentation			Contract Closeout
	Contractor's Reports			
	Invoices and Related Correspondence			MODIFICATION BACKUP DOCUMENTATION
	Administrative Correspondence			Action Memo & IGCE
				Revised Statement of Work
				Requisition
	PRE-AWARD DOCUMENTATION			Determination to Exercise Option
	Milestones			Post Negotiation Memorandum
	Action Memo			Modification Correspondence
	Requisition			Review Sheet
	SOW			Closeout Modification:
	IGCE			Contract Completion Statement
	Evaluation Criteria			Contract Closeout Checklist
	Recommended Sources			Closeout Memo to COTR
	COTR Nomination			Closeout Letter to Contractor
	TEP Member Designation			
	Market Research			

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Adv Proc Plan				
Determinations & Findings: Options & T&M				
EPLS Eligibility				
DOL Wage Rate Determinations				
Pre-Award Synopsis				
Pre-Award Correspondence				

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Attachment 8. Bid Review and Technical Evaluation Panels

Bid Review and Technical Evaluation Panels

The Hirshabelle State of Somalia shall use technically qualified panels to evaluate each bid or technical proposal. Hirshabelle State of Somalia encourages expert external expertise on major procurements.

Technical Members

All Members of the panel must be technically qualified to review and evaluate the substance of the proposals. It is important to ensure that the panel members actually possess the various skills required to evaluate all aspects of the proposals (e.g., environmental, social, and monitoring and evaluation), and not be serving merely as a representative of an organization or by virtue of the office they hold. However, panel members are not expected to be procurement experts and will not be making decisions about the procurement process. All members of the panel must be voting members. Panels generally consist of 3 to 5 technical members, but the size will vary depending on the types of expertise needed for the specific procurement. In each case, however, the number of technical members must be rationally related to the task at hand. In the interest of continuity, the same panel should be used throughout the selection process.

Confidentiality

The names of the panel members must remain confidential in order to decrease the possibility of undue influence by the competing entities. All proposal information must remain confidential and may not be shared by anyone who has not signed an Impartiality and Confidentiality Declaration.

Conflict of Interest of Panel Members

The designation process for the panel must also ensure that the panel members do not currently, nor have engaged in during the past one year, work for any of the competing entities. In addition, the panel member must not have a financial interest that could be affected by their participation on the panel. Any person who is listed as personnel (key personnel or other specifically designated personnel) in a proposal, or who is considering prospective employment with a competing consultant, is not eligible to be a member of a panel for the related procurement. Each member of the panel, including any auxiliary members, the Procurement Agent, the procurement director and any observer or anyone provided procurement sensitive information must sign an Impartiality and Confidentiality Declaration and that this be documented in the evaluation report. (See Attachment 2 to this Procurement Procedures Manual for a sample). This sample can be altered to fit the specific context of the procurement, but must preserve the key elements of the declaration. It is of utmost importance that the members of the panel do not have any financial interest in the outcome of the procurement, and it is the responsibility of the Procurement Agent to ensure that all members understand this requirement.

Payments to Panel Members

Government Employees In general, The Hirshabelle State of Somalia shall not pay honorariums to employees of the Hirshabelle State of Somalia or other government agencies. Government employees may be paid for travel and per diem expenses directly related to participation as a panel member, subject to the limitations set forth in the applicable Hirshabelle State of Somalia Cost Principles.

Private Sector Members. The Hirshabelle State of Somalia may pay a reasonable fee to private sector members for their services as a panel member, subject to the limitations set forth in the applicable Hirshabelle State of Somalia Cost Principles. Private sector members are procured as consultants under Section 5.

Bid Review or Technical Evaluation

In conducting the bid review or evaluation members of the panel will conduct the evaluation in accordance with the evaluations criteria in the bidding documents, and will provide numerical scores for each criteria and sub criteria. An adjectival score may be used only in conjunction with the numerical score. For example: excellent 100 - 92; good 91 - 85; satisfactory 84 - etc.

Consensus will be used to reach the final scoring. In regard to achieving consensus within the panel, the panel is encouraged to meet as soon as possible after completing initial evaluations. The panel members are encouraged to discuss the rationale of their ratings and any unique understanding of the proposals and/or Terms of Reference (TOR) that may add to each other's knowledge and/or understanding of the effort. It is permissible for panel members to change their rating if, through this discovery process, they believe they have missed important information in evaluating the proposal.

These discussions are an open forum that allows each member of the panel to focus on how their fellow panel members came to an evaluation decision. These factors assist to reach and support (through the narrative) a consensus opinion concerning the technical merit, strengths, and weaknesses of each proposal based upon the evaluation factors in the bidding documents. As a result of these discussions no panel member should be pressured to change a rating or comment, but also realize that any panel member is free to change any initial rating or comments he or she has assigned based upon this discussion. The final panel rating may not always reflect the "average" rating, but shall reflect a rating agreed to through this consensus discussion.

Bid Review or Technical Evaluation Report

At the end of the evaluation process, the Hirshabelle State of Somalia shall prepare a report documenting the results of the evaluation process and, if required by the approval requirements (Attachment 1) submit the report to Hirshabelle State of Somalia for its review and approval. The report shall substantiate the results of the evaluation and describe the relative major/minor strengths and major/minor weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained by the Procurement Director.

