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Oromia Capital Goods Finance Business S.C.

CAPITAL GOODS PROCUREMENT POLICY

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Preamble

Whereas Oromia Capital Goods Financing Business S.C hereafter refer to as OCGFB S.C. *Whereas* existing Capital Goods Leasing Operational Manual was approved in 2014 G.C that have been used for long years;

Whereas, there is a need to set up, promote and develop strong and viable capital goods finance Business in Ethiopia so as to contribute for economic growth;

WHEREAS, to achieve better transparency, efficiency, fairness and impartiality in capital goods procurement and to enable the utilization of the limited budget spent on Capital Goods procurement in a manner that ensures greater economy and efficiency by addressing problems encountered in the course of implementation of the Capital Goods Procurement Manual determining the procedures of Capital Goods procurement of the Oromia Capital Goods Financing Business S.C during the years in which it was enforce;

WHEREAS, to ensure that Capital Goods in which a significant amount of the company budget is invested, utilized in such a manner as to enable the company derive maximum benefit therefrom and modernize the administration thereof, it is necessary to introduce an integrated capital goods administration;

PART I

1. INTRODUCTION

AS it is clear **“Procurement Manual”** provides the essential information for procurement of Capital Goods that the company mainly procures for its core Business activities, works and services. The manual is intended to guide the procurement officials and committees who are directly involved in the procurement activities. It also intends to help in understanding the procurement processes and to achieve uniformity in company’s procurement processes at all level.

The manual will serve as a road map for the procurement activity and will be carried out within the context of government policies and procedures. In doing so, it will play a great role in ensuring organizational and operational efficiency as well as avoiding ambiguity in discharging one's responsibilities.

The manual, also, enables the company to maintain reliable policies and procedures in procurement at all levels. It has a clear focus on the objectives to scale up and support ongoing efforts of the company to improve quality of purchase of Capital Goods for MSMEs and enhance existing capacity of the company to become dynamic, demand-driven, quality conscious, efficient and forward looking, responsive to rapid economic and technological developments occurring at local and international levels.

In general this procurement manual, therefore, provides the essential information and brief step-by-step procedures for procurement of the Capital Goods stated above in line with the objectives of company’s growth and in consideration of MSMEs and stakeholders’ needs and expectations.

1.1 SHORT TITLE

This policy may be cited as “Oromia Capital Goods Finance Share Company Procurement policy/manual”.

1.2 DEFINITIONS

In this procurement manual unless the context requires otherwise:

- a) **“Agency”** means Public Procurement Agency

- b) **“Bid”** means a tender, or an offer, in response to an invitation, by a person, consultant, firm, company or an organization expressing his or its willingness to undertake a specified task at a price;
- c) **“Bidder”** means a person who submits a bid;
- d) **“Bidding Documents”** means a document prepared by the company as a basis for preparation for a bids;
- e) **“Board of Directors”** shall mean the governing body of the company
- f) **“Capital Goods”** Means any equipment or machine that may be used to produce products or to provide services and includes accessories;;
- g) **“Company”** shall mean Oromia Capital Goods Finance Business Share Company;
- h) **“Competitive Bidding”** a procedure leading to the award of contract whereby all the interested persons, firms, companies or organizations may bid for the contract;
- i) **“Contract”** means an agreement enforceable by law;
- j) **“Fixed Asset”** means goods whose value is 1000 birr and above and can serve more than a year.
- k) **“Lowest Price”** means:-
- i. A bid most closely conforming to evaluation criteria and other conditions specified in the bidding document; and
 - ii. Having lowest evaluated cost;
- l) **“MSMEs”** means micro, small and medium enterprises
- i. **“Micro Enterprise”** means a business Enterprise that established in the form of PLC or share company or sole proprietorship or partnership that can employ up to 5 individuals including the enterprise owner and the family with a capital up to birr 50,000 for service sectors and up to birr 100,000 for industry sectors. The capital amount does not include the value of an enterprises’ building if any.
 - ii. **“Small Enterprise”** shall mean a business Enterprise in the form of PLC, or Share Company or sole proprietorship or partnership that can employ 6-30 individuals including the enterprise owner and the family with a capital from 50,001-500,000 for service sector and birr 100,001-1,500,000 for industry sector. The capital amount does not include the value of an enterprises’ building if any.

- iii. **“Growing-Medium Enterprise”** means those enterprises that are graduated from Small Enterprises and fulfill the criteria given to set the status and level of Growing-Medium Enterprises
- m) **“Procurement”** means obtaining Capital Goods that shall be requested by MSMEs through purchasing, hiring or obtaining by any other contractual means;
- n) **“Proclamation”** means the Ethiopian Federal Government Procurement and Property Administration Proclamation No. 649/2009.
- o) **“Procurement Committee”** means a team composed of staffs from different directorates of the company and responsible for handling all company’s procurements including Capital Goods for MSMEs, fixed assets, consumable materials and services that shall be requested by different work units of the company;.
- p) **“Procurement Officer”** means an individual in Capital Goods Procurement and Property Administration Directorate who shall handle procurement activity of the Company independently.
- q) **“Repeat Orders”** means procurement of the same Capital Goods from the same source without competition at the lowest original price of the last tender;
- r) **“Supplier”** means a person, firm or an organization who undertakes to supply Capital Goods.
- s) **“Technical Specification”** means the Quality and Standard requirement that could provide a correct and complete descriptions of the Capital Goods, to be procured by the company which is used for the purpose of procuring quality goods as per the demand of the requesting party and for the purpose of creating conditions of fair and open competition among all candidates
- t) **‘Total price’** means the value that quoted by the supplier as its sales price for the item to be procured which the company is expected to pay for the specific procurement
- u) **“Value for Money”** means best return for each Birr spent in terms of quality, timeliness, reliability, after sales service, upgradeability, price, source, and the combination of whole-life cost and quality to meet the company’s objectives.

1.3 SCOPE OF THE MANUAL

The policies and procedures in this procurement manual shall be applicable to all procurements of **Capital Goods** that shall be requested by MSMEs.

1.4 OBJECTIVE OF THE MANUAL

This procurement manual shall have the following objectives:

- a) Purchase of Capital Goods of a good quality with a competitive price from reliable supply sources,
- b) Ensure the timely delivery of Capital Goods
- c) Ensure company's interest; eliminate wastage of resources and corruption,
- d) Maintain effective communication between the company and its suppliers to secure a high level of service and favorable terms of payment to the company,
- e) Helps to develop planned purchasing system in the company,
- f) Enhance MSMEs and customer's satisfaction,
- g) Empower staffs in decision making.
- h) Helps to follow each step in implementing procurement

1.5 BASIC PRINCIPLES AND PROCUREMENT RULES

1.5.1 Basic Principles

The Procurement of Capital Goods and its accessories by the company to lessees shall be based on the following basic principles

- a) Timely provision of requested items & services;
- b) Effective utilization of budget;
- c) Maximize value for money from procurement (i.e. ensuring economy, efficiency and effectiveness);
- d) Fair and non-discriminatory treatment of suppliers; to give all qualified bidders an equal opportunity to compete for the tender;
- e) Transparency; to ensure that the procurement process is transparent, fair and discretion free,
- f) Accountability for decisions made and measures taken with regard to company procurement;
- g) Domestic preference; where in the evaluation of bids for procurement of items and services or works equal percentage points are resulted for local and

international bidders offering similar price and quality. However, preference shall be given to local manufacturers and suppliers

1.5.2 BASIC PROCUREMENT RULES

a. Keeping Records

The company shall maintain records and documents regarding its Procurement for a period of ten years from the date of concluding capital goods procurement proceeding which will contain:

- i) Description of the items of capital goods to be procured,
- ii) Invitation to bid,
- iii) Names and addresses of suppliers who submitted bids, proposals or quotations, names and addresses of the winner,
- iv) Evaluation criteria applied, summary of evaluation and comparison of bids, proposals and quotations received,
- v) Information on any decision to suspend or cancel proceedings after having been initiated and,
- vi) The reasons to use that particular procurement procedure other than open bidding.

The record concerning any proceeding shall on request, and once the proceedings have resulted in a contract or have otherwise been terminated, are made available to candidates who participated in the proceedings. However except when ordered to do so by a competent court and subject to the conditions or such an order, the company shall not disclose:

- i) Information if disclosure would be contrary to law, would impede law enforcement, would not be in the public interest, would prejudice legitimate commercial interest of the parties or would inhibit fair competition,
- ii) Information relating to the examination and evaluation of bid proposals or quotations and the actual content of bids, proposals or quotations should be kept confidentially.

b. Non-Discrimination

Without prejudice to Article 5.2 of this Manual, suppliers shall not be excluded from participation in the procurement on the basis of nationality, race or any other criteria not having to do with their qualifications.

c. Form of Communication

- i. Communications between suppliers and the company shall be in writing. Communications in any other form shall be referred to and confirmed in writing.
- ii. Subject to necessary safeguards with regard to authenticity and confidentiality, and when technical conditions so permit, the company may determine which Electronic communication to be used in addition to or instead of writing.

1.6 CODE OF ETHICS

1.6.1 Authorized persons and employees of the company engaged in evaluation, approval of purchasing in any form of procurement shall not use their authority or position for personal gain of any type, specially:

- a) Openly declare to the manager his/her authorized representative, or to the bid committee any personal interests that may impose or be seen to impose upon their behavior:
- b) Shall not accept any gift or gratitude or hospitality,
- c) Keep in secrecy, sensitive information treated as confidential.

1.6.2 All authorized body and personnel of the company involved in the procurement process shall adhere to laws, ethical principles stated in the company's code of conduct and to this manual,

1.6.3 Qualified suppliers shall be given equal opportunity to compete for any purchase of Capital Goods, Fixed Assets, Consumable Materials, Works or services,

1.6.4 All purchase decision shall be based on the objective assessment of quality, fair goods/ services price and technical qualifications.

PART II

2. Duties and Responsibilities of Procurement Performers,

Company's procurement management will be the responsibilities of different levels authorized body in the company. Accordingly, the following are authorities with respect to approval or evaluation of procurement of Capital Goods as provided in this manual.

- a) Board of Directors
- b) The Executive Managing Director or his authorized representative
- c) Capital Goods Procurement and Property Administration Directorate Team.
- d) Procurement Committees at Head office including the BoDs, and Procurement Committee at Branch offices
- e) Branch Managers,

2.1 THE BOARD OF DIRECTORS

- 2.1.1 It is the mandate of BODs to indorse /approve/ procurement above Birr 5,000,000.00
- 2.1.2 The board is responsible for the overall procurement policies of the company and its implementation.
- 2.1.3 Board of Directors shall approve:
 - a. The annual plan and budget allocated for the procurement of Capital Goods, Fixed Assets, consumable Materials, Works or services.
 - b. The standard bid document of the company (as required).
- 2.1.4 The Board of Directors shall follow and ensure the implementation of this policy /manual.

2.2 The Duties and responsibilities of Executive Managing Director

- 2.2.1 The Executive Managing Director shall have the following responsibilities:
 - a) Executive Managing Director authorized to approve the capital goods whose value birr 3,000,001.00 up to 5,000,000.00
 - b) Ensures that this manual is properly implemented;
 - c) Ensures that the company achieves value for money in its procurement of Capital Goods,
 - d) Review and approves or rejects any proposal recommended by the Procurement Committee within his/her approval authority limit;

- e) Appoints member of the procurement committee;
- f) Delegates his powers to his subordinates in writing;

2.3 Duties and Responsibilities of a Procurement Unit

Apart from duties and responsibilities given by the operational lease policy, a procurement unit shall have the following additional specific duties and responsibilities:-

- a) Identify the procurement need and prepare the procurement plan of the company in accordance with article 3/1 of this policy; which can be purchased through consolidated procurement with needs of lessees
- b) Make sure that except as provided in article 51 sub articles 1 g and h of the Proclamation, OCGFBSCo procurement is made from suppliers who are registered by the Agency and have Bank- Account.
- c) Prepare and submit to the Procurement Endorsing Committee, bidding documents in collaboration with the procurement initiator (lessees).
- d) Make corrections to the bidding documents in conformity with the recommendation of the Procurement Endorsing Committee,
- e) Establish and maintain suppliers data base and regularly update the data base
- f) Establish and Maintain Capital Goods Catalogs that mostly demanded by MSMEs and new models and regularly update the catalog database
- g) Compiles procurement demands of MSMEs, internal requests and prepares procurement plan;
- h) Ensure whether all demands from MSMEs generated requests are presented with clear specifications
- i) Advertises bid opportunities on the newspaper (media) or company's web site, as the case may require;
- j) Sells bid documents, responds to the questions that may raise in connection with sold bid documents,
- k) Prepares sufficient bid boxes for submission of bids regularly,
- l) Ensures that all the bidding documents are signed and stamped,
- m) Ensures that minute is prepared for bid opening,
- n) Receives bid security and keeps under proper custody,

- o) In collaboration with the requesting MSMEs select candidates for procurement to be made
- p) Communicates award decisions,
- q) Ensures that the implementation of the awarded contract is in accordance with the terms and conditions stated in the bid documents and or any amendments,
- r) Deliver purchase order and ensures that Capital Goods are supplied or provided as per the terms and conditions stipulated in the contract agreement,
- s) Facilitate the delivering of purchased Capital Goods to the working premises of MSMEs or store and receive all necessary documentation for payment.
- t) Ensures the commissioning of the Capital Goods procured at the working premises of MSMEs based on the procurement agreement made with suppliers
- u) Follow the implementation of post procurement services of Capital Goods or any items procured based on the procurement agreement made with suppliers
- v) Handles procurement issues to be processed by the Directorates' team,
- w) Enforces payments by providing necessary documents to Finance and HRMD Directorates,
- x) Prepares and submits performance reports on the type, quantity and mode of purchase to the Executive Managing Director,
- y) Open bids, invite the procurement initiator and internal audit to attend the bid opening ceremony, if possible

2.4 Capital Goods Procurement Endorsing Committee

Apart from duties and responsibilities given by the operational lease policy, a procurement unit shall have the following additional specific duties and responsibilities:-

- 2.4.1 A Procurement Endorsing Committee will be established by the company to execute all capital goods procurements for a minimum values above birr 50,000.00 that shall be procured either-or in Proforma, open bid, restriction bid, procurement by request for proposal, direct procurement and request for quotations single stage bidding in accordance with the relevant Laws and this policy/manual.
- 2.4.2 Ensure that the annual procurement plan prepared by the procurement unit of a company takes into account the following points:-

- a) That the identified procurement needs of the company are in harmony with its work program.
- b) That there is no other better alternative to procurement to satisfy each need,
- c) That the procurement plan is prepared in such a way as to enable bulk purchase
- d) That other special requirements arising from the nature of the company are addressed

2.4.3 Ascertain that the bidding document prepared by the procurement unit satisfies the following requirements:-

- a) That it is in conformity with the standard bidding document prepared by the Agency for each type of procurement.
- b) That the technical specification complies with the conditions stipulated in the Proclamation & this policy.
- c) That the evaluation criteria are non-discriminatory, transparent and achievable.
- d) That it contains all the necessary forms and conditions which the proclamation and this directive require to be stated depending on the type of the procurement, and other matters of fundamental importance.

2.4.4 Consider and approve Bid evaluation reports of procurements the value of which exceeds the threshold specified in article 11/2 of this policy for each type of procurement, by ascertaining that the following conditions are satisfied:-

- a) That the evaluation was conducted in accordance with the bidding document,
- b) That the evaluation was carried out in compliance with the provisions of the proclamation and this policy,
- c) That the detailed evaluation leading to the recommendation given in the evaluation report and the overall process of capital goods procurement would result in ensuring value for money for the company.

2.4.5 Implement the provision of article 5/26 of this policy.

2.4.6 Any decision given by the committee on evaluation report submitted to it should be reasonable.

- 2.4.7 Advise the head of the company on ways of ensuring compliance with the Proclamation, this policy and other legal documents regulating the conduct of capital goods procurement.
- 2.4.8 Submit to the CEO of the company reports on procurements made, problems encountered and solutions suggested.
- 2.4.9 Give clarification concerning its decisions made on any procurement proceedings within its Jurisdiction when required to do so by the company, the BoDs' and other appropriate body.
- 2.4.10 Members of the Procurement Endorsing committee at Head office shall be appointed by the Executive Managing Director which may constitute the following:
- i) A management member to be elected by the EMDChair Person
 - ii) Three staff members from each directorate assigned by EMDMember
 - iii) One of the technical officerMember& secretary
- 2.4.11 Roles and responsibilities of a chairperson & a secretary of a Procurement Endorsing Committee and the meeting procedure of such committee are provided in **annex 2** of this policy
- 2.4.12 All Members of the Procurement Committee shall:
- i) be renowned for their eternal behavior,
 - ii) have never been subject to disciplinary actions,
 - iii) Have knowledge about international bids too
 - iv) Have knowledge and experience required and to carry out procurement and particularly the knowledge about Capital Goods.
- 2.4.13 Decisions in the Procurement Endorsing committee shall be taken by majority vote with the chairman having the casting vote in the event of a tie,
- 2.4.14 Dissenting (nonconforming) opinion of a member shall be recorded in the minutes
- 2.4.15 The Procurement Endorsing Committee at the head office and shall be changed whenever required.
- 2.4.16 Endorse the procurement of capital that its single value is above birr 50,000.00 and all different items procurements that are bought in bulk or in different purchase method when total value of the items are greater than 50,000.00 as well .

- 2.4.17 Select the appropriate procurement methods from the options that are approved and stated here in this manual in consultation with the procurement requesting MSMEs or and concerned internal work unit (Procurement unit);
- 2.4.18 Procurement Endorsing Committee shall evaluate the bids in accordance with this policy and propose selection for decisions of the Executive Managing Director or to his authorized representative
- 2.4.19 The Procurement Endorsing Committee might also use technical experts to evaluate the technical aspects of any bid. These experts can be any of the following:-
- a. From within the committee itself,
 - b. Experts from the company who have direct knowledge of the Capital Goods,
 - c. From other specialized government institution
 - d. A consultant or a private company specializing in these aspects.
- 2.4.20 All authorities, any member of the Procurement Endorsing committee or Ad-hoc committee member responsible for opening, evaluation or approval of bids or any purchase request shall be jointly and severally liable for any damages caused so that by negligence; intentional act or act of omission arising from their official responsibility.

PART III

3. Procurement Plan

3.1 Preparation of procurement plan

- 3.1.1 The company shall be required to prepare a procurement plan supported by action plan enabling them to execute in due time, the procurement necessary to implement their work program.
- 3.1.2 The procurement plan shall be prepared in such a way as to enable the attainment of the following objectives:-
- a. To ensure compliance with principles of capital goods procurement stated in article 6.6 of the operational policy of the company.
 - b. To achieve the work program of the company.
 - c. To ensure economy and efficiency in the operation of the company by discouraging piecemeal purchase.
 - d. Exercise prudence and make the necessary preparation to forestall problems that might be encountered in the execution of procurement.
 - e. Make necessary preparations by realizing that risks may encounter in procurement processes in the future.
 - f. Avoid routine purchases to make the company's operation timely and cost efficient, thus, preferably and if possible arrange for bulk procurement
 - g. Maintain best quality of capital goods with a reasonable price
- 3.1.3 The annual procurement of Capital Goods shall be conducted based on the demands and requests of MSMEs which could not be known in advance, the company shall set budget and prepare procurement plan of Capital Goods by identifying sectors that to be financed during the budget year with consistency of operational plan. The identification of the sectors shall be made by assessing the available market and demands of the Capital Goods.
- 3.1.4 The company shall set budget for Capital goods to be purchased within the budget year,

3.2 Identification and packaging of procurements

3.2.1 the company identifying its procurement needs, have to take the following point into consideration:-

- a) That the need can be raised by MSME's met by a product or service available in the market
- b) That the need cannot be met by using unused resource or property available in the company.
- c) That the need does not involve items which shall be of no use to the company and cause to incur unnecessary cost.
- d) That the identification of procurement needs makes provisions for additional need that might arise in the future, especially in regard to the procurement of goods of long term contract.
- e) That the procurement need is in line with standard items which are widely available in the market unless the need requires otherwise.
- f) That the procurement need is environmentally friendly.

3.2.2 In determining its annual procurement needs arising from its various departments, the company has to adhere to the following procedures:-

- a) require end users in the company to submit their annual procurement needs,
- b) Identify the need submitted by end users by type of procurement, quantity, quality and source.
- c) Identify capital goods to which the company gives priority and special attention.
- d) ascertain that there are adequate suppliers for the needs
- e) Determine the cost estimate for each type of capital goods procurement by reference to survey conducted by the company or price information obtained from other sources.

3.3 Selection of procurement Method

3.3.1 In the preparation of procurement plan, the company has to select and indicate the appropriate procurement methods to be used in respect of each type of procurement, from among the methods prescribed in this manual and operational lease policy.

- 3.3.2 In preparing its procurement plan, a company has to insure that the plan is inclusive of all of its identified procurement needs and the appropriate procurement method is selected for each procurement

3.4 Deciding /Setting time table for Capital Goods procurement

3.4.1 A company has to fix the time table for the main activities to be performed in the procurement process, using the formats developed by the directorate to facilitate the preparation of procurement plan. In doing so, the company has to take into consideration the following and other matters which are relevant to the type of procurement.

- a) That the time fixed for the execution of that procurement is in harmony with the work schedule of the company,
- b) That the schedule takes into consideration when the supply is widely available in the market.
- c) That the schedule is in keeping with the minimum floating period of bids prescribed in Annex 3 of this policy and allows as far as possible, additional time for bidders to prepare bid documents in order to create conducive environment for wide competition.
- d) The company has to ensure that adequate time is given for preparation, evaluation and approval of bid documents in respect of complex and large procurements.

3.4.2 Without prejudice to sub article 3.4.1 of this article, care should be taken in the fixing of procurement schedule not to allow longer time in respect of each type of procurement than what is necessary for carrying out the main activities of procurement.

3.5 Content of a procurement plan

3.5.1 The company has to prepare procurement plan in accordance with the provision of part 3 of this policy and using the procurement plan preparation format developed by the company and attached as annex 1 to this policy. The procurement plan the company shall contain:-

- i. Preparing procurement category and description

- ii. Procedures to be followed in performing procurement and procurement size
- iii. The time of implementation of major activities of completing the procurement
- iv. The budget required and appropriate contract type for procurement
- v. The condition and scope of major participants in the procurement process

3.5.2 In order to make the procurement process transparent, the company shall attach major data sources and relevant information that are used as input for procurement plan preparation

3.6 Approval and amendment of procurement plan

- 3.6.1 Procurement directorate has to submit the annual procurement plan they have prepared for approval after consultation with the Procurement Endorsing Committee of the company.
- 3.6.2 The executive managing director or the one who officially represent the managing director shall approve the procurement plan of the company as well as all request that to be made by MSME's.
- 3.6.3 If amendment is needed on the previously prepared request the procurement officer of the concerned body will justify the reason of amendment.
- 3.6.4 A company shall not split procurements nor deviate from the annual procurement plan once it is approved by the Executive managing Director of the company and a copy of it is sent to the BoD
- 3.6.5 Notwithstanding the provision of sub article 3.6.4 of this article, a company may at any time modify its procurement plan where necessary.
- 3.6.6 A procurement plan modified in accordance with sub article 3.6.5 of this article shall be sent to all departments and the BOD for which the initial procurement plan was sent

PART IV

4. Procurement methods and their application

4.1 Approved methods of procurement

- 4.1.1 Unless otherwise provided in this manual, the company shall use open bidding as the preferred procedure of procurement for the items that its value fall above the per forma ranges.
- 4.1.2 Depending on the nature of supply and essentiality of the Capital Goods to be purchased and as the circumstances may justify, the company shall use the following procurement methods:-
- a) Open bidding:
 - b) Restricted bidding:
 - c) Single source /Direct Procurement
 - d) Request for quotations , and
 - e) Two-stage biddings:
- 4.1.3 The company may use preferred procurement methods other than open bidding if and only if it is justified in accordance with the terms and conditions stipulated in this Manual and operational policy of the company.

5 Procedure of National Competitive Bidding

- 5.1.1 Depending on the value, complexity, type of quality, and availability of the Capital Goods of services to be purchased, the company shall announce through public media for international or local bid invitation to all potential suppliers.
- 5.1.2 Where Capital Goods or services to be purchased at local market are of satisfactory quality standard and competitive in terms of price, local bid shall be given preference to international bid,
- 5.1.3 The company can purchase capital goods by open bidding when a single price of Capital Goods above Birr 5,000,000.00 When applying national competitive bidding, the company shall use the standard bidding documents prepared by the Agency and follow the steps listed hereunder article 5.4 and 5.5 of this policy.

5.2 Pre-requisite

Company has to ascertain that the following conditions are satisfied when using national competitive bidding:-

- 5.2.1 Ascertain that the required objects of procurement can only be procured from local suppliers and the value of the procurement is below the threshold established for international competitive bidding in **article 6/2** of this policy, or
- 5.2.2 The required object of procurement is available only locally notwithstanding that the cost of the procurement exceeds the threshold established in **article 6/2** of this policy.

5.3 Invitation to bid

- 5.3.1 The invitation to bid has to be published at least once in a newspaper that has nationwide circulation to ensure participation of as many bidders as possible.
- 5.3.2 Without prejudice to article 5.5/1 above, OCGFBSCO may advertise bids at any time, as many times and by any means of its choice other than those stated in article 35/2 of the Proclamation
- 5.3.3 The publication of an invitation to bid shall contain at least the following information:-
 - a. The name and address of the company publicizing the invitation to bid
 - b. The type and to the extent possible the quantity and place of delivery of the capital goods and the site of the capital goods to be delivered,
 - c. The criteria to be satisfied by the candidates, who can participate in the bid,
 - d. The Bid document for Capital Goods in particular shall also contain information about place of handing over, commissioning (erecting) testing production, post sales service, maintenance and other related issues of the Capital Goods
 - e. Means and conditions for obtaining the bid document and the place where the documents may be obtained,
 - f. The amount of the bidding security
 - g. Place and time, for opening the bids and an announcement that bidders or their Legal Representative are allowed to attend the opening of the bid,
 - h. The price of the bid document and the means of payment

- i. The place and deadline of submission of bids, and the place, date and hour of the bid opening
- j. If bidders are required to submit sample the place where samples are to be delivered and if appropriate the time when and the place where the samples will be openly shown, as well as, an indication that samples are to be returned to unsuccessful bidders or not,
- k. Reserved right of the company to increase or decrease quantity of the items to be purchased by 25% without altering the price offered by the bidder in the original bid,
- l. A statement that the bidders shall not alter or amend, that they shall not withdraw their bid after the bid opening,
- m. Criterion for evaluation and points to be given for each criterion and award of the contract,
- n. Reserved right of the company to reject all or part of the bids at any time prior to the notification of award, bids
- o. Other matters that the company deems necessary for bidders to know.

5.3.4 The invitation to bid shall be prepared in the language in which the bid proceeding is to be conducted as provided in article 5/16 of this policy.

5.4 Bidding Document

5.4.1 OCGFBSCo has to use the standard bidding document prepared by the Agency and make sure that the bidding document prepared by company incorporates the contents listed in this policy.

5.4.2 The company to reproduce the part of the standard bidding documents dealing with the instruction to bidders and the general conditions of contracts in the bidding documents and prepare without making any change there to, while making any adjustment to the other parts of the standard bidding documents that consider appropriate to the type and nature of the procurement,

5.4.3 The task of drawing up bidding documents is principally that of the procurement unit or team, a bidding document prepared in respect of procurement subject to the approval of the Procurement Endorsing Committee has to be approved by the committee before being put to use.

- 5.4.4 Prior to the bid announcement, the company shall prepare its bid documents specifying clearly. The bid document consists of
- a) Instruction to bidders,
 - b) Bid form, and where applicable a standard form for bid security or performance bond,
 - c) Form of contract,
 - d) General or special conditions of contract,
 - e) Specification of the Capital Goods or services to be procured,
 - f) List of consumable goods or bill of quantities (where applicable),
 - g) Number of copies to be submitted with the original bid,
 - h) Purchase price of the bid document,
 - i) Response, delivery or completion time,
 - j) Evidence to be provided by bidders to demonstrate their qualification, financial capacity and registration in suppliers' list,
 - k) Any other detail not incorporated in the above.

5.5 Instruction to bidders

5.5.1 The company has to make sure that bidders get the instruction to bidders which is an integral part of the standard bidding document, and the bid data sheet which is an extension of the instruction to bidders, as parts of the standard bidding document.

5.5.2 The company has to ascertain that the instruction to bidders it prepares contains the following:-

- a. A general description of capital goods
- b. The content of bid documents to be submitted by candidates, the language in which bid documents have to be submitted, the type and number of necessary documents and complementary forms described in the bidding documents.
- c. An indication of the address and time for submitting requests of clarification on the bidding document and a statement that such request has to be made in writing
- d. An indication that the bidder has to sign on Anti-bribery pledge form; a statement of undertaking to observe Ethiopian Law against Fraud and Corruption and other forms that ought to be completed and signed by him/her

- e. A statement indicating that bidders attempting to influence the bid shall be disqualified from the bid, prohibited from participating in any future public procurement and the bid security deposited by them shall be forfeited, or not,
- f. If bidders are required to submit samples, the place where the samples are to be delivered and if appropriate, the time when and the place where the samples will be openly shown, as well as an indication that samples are to be returned to the unsuccessful bidders
- g. The place where the bid box is available and a statement indicating that bids submitted after the bid is closed shall not be accepted,
- h. A statement indicating the methodology of evaluating bids, the criteria for the evaluation and the weight each criterion shall have as well as the conditions for submitting further proposals to select the successful bidder and the criteria for evaluating such proposals where two or more bidders get equal evaluation results.
- i. Whether it is possible to make price adjustment in the course of the performance of the contract and the condition in which such price adjustment is made, if it is allowed,
- j. An indication of the mode and amount of bid and performance securities required and the validity period of same.
- k. The deadline for submission of bids and the place date and hour of the bid opening
- l. The validity period of the bid as well as the place and time of delivery.
- m. A statement indicating the manner of application of preference to local products and companies granted by the Proclamation.
- n. An indication whether the bids are to be submitted in a single or double envelopes, the manner in which the envelopes are sealed, the requirements that the original and copies of the bid documents shall be uniform, the number of copies, that all documents have to be signed by authorized persons and the seal of the organization shall be affixed there to, the manner in which supporting documents (current tax clearance certificate, renewed business license and other documents) that the company requires should be submitted.

- o. If advance payment is to be made in accordance with article 5/29 of this policy, the amount of such payment and the mode of the corresponding guarantee required as a prerequisite for such advance payment
- p. An indication that if bidders are aggrieved by the decision rendered during the procurement process, they have the right of complaint in accordance with chapter fourteen of the Proclamation and article 24 and 26 of this policy, and the place where such complaint may be filed
- q. An indication that the company has the right to decrease or increase the quantity of the Capital Goods by up to 20% (twenty percent) when awarding the contract without changing the unit price offered by the bidder.

5.5.3 No change shall be allowed to the content of the instruction to bidders of the standard bidding document. Any modification to be made to the instruction to bidders shall be indicated only in the bid data sheet

5.6 Technical Specification of Capital Goods

- 5.6.1 The company shall be required to draw up detailed technical specification Capital Goods procurements in accordance with the lessees preference
- 5.6.2 A technical specification of capital goods shall be prepared in accordance with the need of lessees and in such a manner that it allows wider competition on the basis of performance, function, technical or design characteristics depending on the type of the procurement.
- 5.6.3 The technical specification shall be used to verify the conformity of the supply with the stated technical requirement.
- 5.6.4 The technical specification of capital goods shall be drawn up by the procurement unit which has identified the need or by the staff of the company who have adequate knowledge of the procurement in question. The company may seek the advice and assistance of experts outside the company or hire consultants.
- 5.6.5 A specification shall not prescribe a particular capital goods provider. However, where it is difficult to draw up a specification giving an accurate description of the requirement, where the procurement is for spare parts for a particular item of proprietary plant or equipment, or where there is known to be only one manufacturer

- or provider of the capital goods in question, the name of the manufacturer and the term “Or Similar” may be incorporated in the specification.
- 5.6.6 The technical specification should be prepared in such a manner that it incorporates use values needed to satisfy the current and future demand of the company and lessee in question and should avoid the inclusion of non-value adding features.
- 5.6.7 When preparing technical specification, the company may incorporate standards set by Ethiopian Quality and Standard Authority or by other similar institutes depending on the type of procurement and as appropriate
- 5.6.8 Technical specification shall form part of the bidding document and shall be sufficiently detailed and comprehensive to provide a complete and exact basis for the formulation of bids by those suppliers wishing to participate in the bid.

5.7 Bid form and Price Schedule

- 5.7.1 The company shall incorporate in the bidding document they prepare the bid form depending on the type and nature of capital goods of the procurement, the bid form and the price schedule prepared by them to be filled by bidders, and other forms the incorporation of which in the standard bidding document is deemed to be necessary.
- 5.7.2 The price schedule to be prepared by company in accordance with **(5.6.1)** of this article, shall be such that prompts bidders to clearly indicate price, tax and other issues related to price and facilitates transparent and efficient bid evaluation.
- 5.7.3 The bid form prepared by the company shall be such that enables the candidates to present clear proposal, understand the bid procedure, warns against acts of disruption of the bid process and informs candidates that they take full responsibility for the bid proposal they put-up.

5.8 General and Special Conditions of Contract

- 5.8.1 The company has to make sure that bidders get copies of the general and special conditions of contract as parts of the standard bidding document.
- 5.8.2 No change shall be made to the content of the general conditions of contract of the standard bidding document. The special conditions of contract may however be modified depending on the type and nature of the procurement with reference to the provisions of the general conditions of contract.

5.8.3 Without prejudice to article 5.7.1 and 5.7.2 above, the special conditions of contract drawn up by the company shall contain the following, notwithstanding that it may vary from one type of procurement to another.

- a. A clear indication of the duties and responsibilities of the company and the bidder as a prospective supplier, and legally sustainable and attainable obligations of the company.
- b. provisions for the important terms of the contract such as time of delivery, packing, responsibility for transportation, price adjustment, payment, delivery and inspection, security and others as the case may be.

5.9 Setting of criteria for bid evaluation

5.9.1 The company has to indicate clearly the bid evaluation criteria in the evaluation and qualification criteria section of the standard bidding document.

5.9.2 Selection of a successful bidder shall be carried out in either of the following two methods, notwithstanding that the bid evaluation criteria varies from one type of procurement to another:-

- a. setting the minimum technical requirement and selecting the bidder with the lowest evaluated bid from among the bidders meeting such minimum technical requirements, or
- b. Indicating clearly in the bidding document the criteria to be applied to determine the functional or economic value of the procurement and the relative weight to be ascribed to each criterion and selecting the bidder with the highest cumulative result by conducting evaluation based on these criteria.

5.9.3 The criteria selected for conducting evaluation as described in article 5.8.2 (b) above shall be objective and that can, as far as possible, be expressed in monetary terms in respect of achieving maximum value for money and shall take the following conditions into consideration:-

- a. A Where the object to be procured is standard supply, whether a value can be sought in respect of that object which is useful to the company/ lessee and which can make a difference among the bidders and facilitates the selection of the successful bidder.

- b. Whether a value offered by a bidder in addition to the minimum requirement would bring extra benefit to the company/lessee, and whether the extra benefit, if any, is significant,
- c. That there is no standard for the capital goods to be procured and whether similar capital goods are available which can respond to the specification in different levels in terms of creating extra benefit to the company/lessee.
- d. In respect of capital goods of long term service, whether the company/lessee has to incur different costs of operation, maintenance and disposal on account of variation in the source of the supply.

5.9.4 After identifying the successful bidder by evaluating the bid documents against the criteria set forth in this article 5.8 of this policy, It shall indicate in advance in the bidding document the criteria the company applies to conduct post qualification evaluation to establish the current qualification of the successful bidder where it feels that it has to be ascertained.

5.9.5 The relevance of the evaluation criteria to be selected in accordance with sub article 5.8.3 of this policy to the determination of the benefit of the capitals goods to be procured must be ascertained and the criteria have to be given relative weight in terms of the level of their contribution to the determination of the benefit of the procurement

5.10 Setting of bid floating periods

5.10.1 In the preparation of a bidding document, a company has to set the deadline for bid submission taking into consideration the following points:-

- a. The time it takes for bidders to obtain the bidding document, to prepare responsive bids, to gather information, to analyze the information, to establish joint venture as necessary, to obtain certificate of manufacturer's authorization including the power of attorney to sign and to fulfill other pre-conditions to participate in the bid.
- b. In case of international competitive bidding, the time necessary for the submission of bid document to the designated place.

5.10.2 Without prejudice to article 5.9.1 above of this policy, the floating period shouldn't be less than the minimum date stated **in Annex 3** of this policy

5.11 Sale of Bidding Documents

5.11.1 The company shall fix the selling price of bidding documents for all kinds of bids taking into consideration the following points further to article 38 of the Proclamation:-

- a. The price of the bidding document prepared by the company shall not be such that impedes wide competition.
- b. In fixing the price of any bidding document, the company shall not seek profit or gain but aim only at recovery of cost incurred in the preparation of the bidding document.
- c. The company may allow candidates to obtain bidding documents free of charge, or at a price less than the cost incurred in the preparation of such document under the following circumstances:-
 - i) Where it is thought that there will be no adequate number of bidders forthcoming for a bid, or
 - ii) Where the cost incurred to prepare the bidding document is so minimal that the company considers recovering the cost from bidders to be unnecessary.
 - iii) Where the company considers that the cost estimate of the bidding document is so high that recovering the full cost from bidders discourages competition by restraining candidates from participating in the bid.
 - iv) In case of re-advertised bid, where the company considers it to be unfair to require candidates who bought the bidding document to participate in the former bid to pay again for the bidding document.

5.11.2 The bidding document shall be available to candidates desiring to participate in the bid on working days during the floating period of the bid in the manner stated in the advertisement.

5.12 Presentations of Samples

5.12.1 Where it is not possible to draw up technical specification, or where the better execution of the procurement requires the presentation of samples representing the

required objects of procurement in addition to technical specification, the company may produce or require candidates to produce samples.

5.12.2 Where the company produces samples of the desired capital goods of the procurement for candidates to take a look at:-

- a) The samples produced by the company shall not be restricted to capital goods produced by a specific producer or under a specific trade name. The samples presented must, as far as possible, involve acceptable specimen, and bidders should be informed that goods of comparable quality may also be supplied.
- b) It is necessary to make sure that samples are displayed at a convenient place clearly visible to the candidates, and to the extent appropriate, a professional has to be assigned to give description of the samples presented.
- c) Where the company has to provide technical specification a part from presentation of samples to demonstrate to candidates the required object of procurement, the technical specification so provided shall, as far as possible, be adequately descriptive of the specimen presented and in conformity with the technical characteristics of such specimen.

5.12.3 Where candidates are required to produce samples in accordance with the technical specification drawn up by the company:-

- a) Candidates shall be given adequate information about the samples they are required to produce as well as the time and manner of presenting such samples.
- b) While samples have to be submitted prior to opening of bids, a company may allow additional time in respect of sample sent by a candidate at the right time but the receipt of which was delayed in the process of transportation for reasons beyond the control of the candidate, as long as in the opinion of the company, allowing extra time doesn't harm the procurement process.

5.12.4 Candidates may supply evidence of their sample where they cannot supply the sample item itself and the company accepts the reason for a candidate's inability to do so. This evidence may include photographs or a piece of sample item. This option may however be exercised if it is ascertained that it doesn't make a difference in selecting the best evaluating bidder and doesn't have discriminatory effect.

5.12.5 The company has the duty to handle and examine carefully, samples supplied by candidates; however Bidders shall not be paid compensation for samples lost or destroyed in the examination process because of their nature. Samples that are not lost or destroyed shall be returned to unsuccessful bidders. If samples are not claimed by unsuccessful bidders within 6 months, they shall be forfeited to the company.

5.12.6 Unless the company decides otherwise, a sample supplied by the successful bidder shall stay with the company until the completion of the procurement process to be used for checking conformity during delivery.

5.12.7 The sample test or evaluation shall be confidential

5.13 Classification or Modification of bidding documents

5.13.1 As provided in article 39 of the Proclamation, a company has to entertain requests from candidates on clarification or modification to a bidding document prepared by it.

5.13.2 Notwithstanding the provision of article 5.12.1 above, the company shall not be obliged to respond to a request for clarification or modification submitted:

- a. Later than 10 days prior to the deadline for submission of bids, in respect of national competitive bidding for complex procurements of capital goods the minimum floating period of which is 30 days as stated in this policy..
- b. Later than 21 days prior to the deadline for submission of bids in respect of international competitive bidding.
- c. Later than 5 days prior to the deadline for non-complex capital goods procurements the minimum floating period of which is 15 days.

5.13.3 . A reply given by the company to a request for clarification by a candidate shall be in writing and sent to all candidates at the same time without reference to the identity of the candidate initiating the request.

5.13.4 Where a company finds it necessary to introduce modification to a bidding document initially issued by it on the basis of request for clarification by a candidate, the company may modify such bidding document. Any alteration to the content of the bidding document shall at the same time be communicated in the form of an amendment to all candidates who purchased the bidding document.

5.13.5 A company has to extend the closing date for submission of bids where it modifies a bidding document as per article 5.12.4 above, if it is assumed that the time remaining

before the closing date is not sufficient for bidders to prepare adjusted bid documents on the basis of such modification.

5.13.6 Where a company deems it to be appropriate, it may convene a meeting of bidders who purchased a bidding document for clarification and discussion on the bidding document or modification thereto, and such discussion shall be minuted.

5.13.7 Copies of the minute shall be delivered to the candidates who purchased the bidding document to enable them prepare their bid documents by incorporating the content of the modification.

5.14 Language of Bids

5.14.1 The language in which bid advertisement and a bidding document are prepared, and the language in which bids are conducted as provided in article 27 of the Proclamation shall be:-

- a) Amharic for national open bidding in which only local bidders participate. However, if the company considers that using English language is more convenient to the procurement process in terms of facilitating competition, it may authorize the use of English language in the preparation of bid advertisements, bidding documents and in bid proceedings.

5.15 Bid price and price Adjustment

5.15.1 A company has to ensure that prices quoted by a bidder are not based on prices of the other bidders and such prices remain firm and do not vary during the validity period of the bid and throughout the performance of the contract.

5.16 Validity period of bid documents

5.16.1 The company shall carefully decide the validity period of the bid and indicate same in the bidding document. While the validity period of bid document or bid price varies depending on the type of the procurement, the company shall take the following matters into consideration in fixing the period.

- a) The complexity of the capital goods procurement in question and the estimated time required for the bid proceeding.
- b) The estimated number of candidates participating in the bid.
- c) The experience of the company in evaluating bids of similar nature

- d) The price volatility of the procurement
- 5.16.2 The validity period of bid price, to be fixed in accordance with article 5.15.1 above, shall take into account the time necessary for the company to evaluate the bid, to obtain the approval of the Procurement Endorsing Committee, to consider complaints and to sign contract with the successful bidder.
- 5.16.3 The validity period of bid shall not extend beyond 60 days from the day of bid opening, unless the company believes that a bid document requires longer preparation period in light of the point of considerations stated in article 5.15.2 above,
- 5.16.4 The company has to complete bid proceedings within the validity period of bid documents and sign contracts with successful bidders however, where the company realizes that for reasons beyond its control the price validity period expires before the completion of the bid proceeding, it shall request bidders to extend the validity period of their bid price.
- 5.16.5 The extension of bid validity a company has to require of bidders in accordance with article 5.15.4 above shall only be for such time as is necessary to complete the remaining part of the bid proceeding. However, bidders who are not willing to extend their price validity period for whatever reason shall be disqualified from the bid without having forfeited their bid security.
- 5.16.6 Bidders agreeing to the company's request for extension of their price validity period have to express in writing their agreement to such request and for how long they are willing to extend the period. Similarly, they have to amend the validity period of their bid security on the basis of the extension of the price validity period they have agreed to, or alternatively, furnish new bid security to cover the extended period.
- 5.16.7 A bidder not agreeing to extend the validity period of his/its bid security shall be treated as a bidder refusing the company's request for extension of price validity period, and as such, shall be disqualified from the bid.

5.17 Bid Security

- 5.17.1 The company has to fix and clearly indicate in the bidding document, the amount and mode of bid security to be required of bidders in respect of each capital goods procurement when executing procurement by means of open, restricted or **two stage bidding**.

- 5.17.2 The amount of bid security the company may require shall be in the range of 0.5% to 2% of the total estimated capital goods price, which the company has to fix and indicate in the invitation to bid and the bidding document. However, the bid security to be fixed by the company shall not exceed 500,000.00 (five hundred thousand) birr.
- 5.17.3 when fixing the amount of bid security as provided in article 5.16.2 above, the company shall take the following points into account:-
- a) The volatility of the price of the required capital goods of procurement.
 - b) the availability of adequate number of candidates to participate in the bid,
 - c) That the bid security required of candidates doesn't discourage them from participating in the bid.
 - d) that the bid security urges the successful bidder to sign the contract
 - e) That the bid security is sufficient to compensate the damage the company may sustain as a result of the successful bidder refusing to sign the contract.
- 5.17.4 The bid security may at the bidder's option be in the form of cash, cheque certified by a reputable bank, bank guarantee or letter of credit.
- 5.17.5 Notwithstanding the provision of article 5.16.4 above, local suppliers engaged in supplied capital good may provide bid security in the form of conditional insurance bond.
- 5.17.6 The validity period of bid security provided by bidders should extend for at least 28 days after the expiration of bid price validity.
- 5.17.7 The bid security furnished by foreign bidders from a bank outside of Ethiopia has to be unconditional and certified or counter guaranteed by local banks.
- 5.17.8 The commission or omission of the following acts by any bidder may result in the forfeiture of bid security to the company:-
- a) Withdrawing from a bid after the dead line for submission of bids stated in the bidding document or before the expiration of the price validity period indicated in the bid document.
 - b) Refusing to sign the contract or to furnish the performance security after award.

5.18 Receipt of bid document

- 5.18.1 The bids shall be submitted in a sealed package or packages in such manner that the contents are fully enclosed and cannot be known until duly opened,
- 5.18.2 The company (OCGFBSO) shall specify the manner and method of submission and receipt of bids in an unambiguous and clear manner in the bidding document
- 5.18.3 The company has to make available a bid box for collection of bid document from bidders. The bid box shall be placed at the location stated in the bidding document and remain open throughout the bid floating period.
- 5.18.4 The bid box shall be kept securely and the key of the box shall be in the possession of the head of the procurement unit until the day of the bid opening.
- 5.18.5 As far as possible, all bid documents shall be placed inside the bid box; however, where the bid box cannot accommodate bid documents, the company shall assign an employee to collect bid documents from bidders as of the day of publication of the invitation to bid.
- 5.18.6 The company shall issue receipt for bid documents it receives from bidders as per article 5.17.5 above in acknowledgement of receipt, the employer in charge of the procurement in question shall be responsible for the security of the bid documents received accordingly.
- 5.18.7 Bid documents received after the dead line for submission of bids shall be returned to the bidders concerned without the envelopes containing the bid documents being opened.

5.19 Bid Opening:-

- 5.19.1 Bids shall be opened in public at the time and place stated in the **invitation** to bid or in the document amending such invitation to bid.

The bid:-

- a) Shall be opened in the presence of the bidders or their authorized representatives who may choose to be present, at the time and place announced prior to the bidding. However, the opening of the bid shall not be affected by the absence of the bidders on their own will.

- b) To the extent that it doesn't interfere with the bid opening process and there is enough space, any representative of mass-media or any other interested observer may attend the bid opening ceremony
- c) As far as possible, a representative of internal audit staff and legal service officer of the company shall be present during the bid opening.
- d) At least 3 employees from the procurement unit shall participate in the bid opening process and to the extent possible, representatives from directorates of the company benefiting from the procurement may attend the bid opening process

5.19.2 For bid documents required to be submitted in one envelope, the company shall open each bid and read out the name of the bidder, the bid price for the contract and rebate offered by that bidder and the bidder's conditions for such rebate, the amount and kind of bid security, and any other information enabling bidders to know their relative position in the bid concerned.

5.19.3 Where bid documents are required to be submitted in two envelopes:-

- a) The envelope containing the technical proposal shall first be opened in the bid opening process and the name and other salient points of the bid shall be read out.
- b) The envelopes containing the financial proposals of all bidders shall be put into one large envelope unopened. The large envelope containing the financial proposals shall be properly sealed and labeled with the bid identification number and a statement indicating that the envelopes therein contain financial proposals written on it and employees of the company executing the bid opening proceeding putting their respective signatures on it. The large envelope containing the financial proposals shall remain sealed and kept carefully under the custody of the procurement unit or any other unit entrusted with the custody of the envelope until the second bid opening preceding.

- c) The result of the technical evaluation shall be communicated in writing to all bidders at the same time who participated in the bid after approval by the competent body.
- d) The letter of notification to be written to the unsuccessful bidders on the technical evaluation shall state the reason for not being chosen as the successful bidder. The unsuccessful bidders have the right of complaint against the result of the evaluation. The procedure in accordance of which such complaints may be lodged and reviewed shall be as provided in chapter 3 of this policy.
- e) The letter of notification to be written to bidders whose technical proposals have been accepted by the company shall state the time and place of opening of the financial proposals. The notification shall be sent to all such bidders at the same time and adequate time should be given to all bidders wishing to attend the financial envelopes opening proceeding. However, if a complaint is lodged against the result of the technical evaluation, the financial proposals shall not be opened pending decision on such complaint.
- f) The financial proposals shall be opened in the presence of the bidders whose technical proposals have been accepted and to whom letter of notification is written to attend the proceeding in accordance with article 5.18.3 (e) above.
- g) The envelopes containing the financial proposals of bidder successful in the technical evaluation shall be opened and the name of the bidder, the price offered and any discount given by such bidder and the conditions for such discount, and any other information related to price shall be read out to inform the bidders in accordance with article 5.18.3 (f) above.
- h) Upon disclosure of the result of the technical evaluation, the bid security and the envelopes containing the financial proposals shall be returned unopened to the unsuccessful bidders. If, however, a complaint is lodged

against the result of the technical evaluation under article 16.18.3 (d), the bid security and the financial envelopes shall not be returned to the unsuccessful bidders pending final decision on such complaints.

- 5.19.4 The procurement unit of the company shall record the minutes of the bid opening. Such minutes shall contain the names of the bidders, their bid price and any other salient points raised in the bid opening proceeding. The minutes and the original bid documents shall be signed by employees conducting the bid proceeding. Bidders present during the bid opening shall sign the attendance sheet.
- 5.19.5 Any bid document not opened and read out during the bid opening proceeding shall not be considered for further evaluation.
- 5.19.6 No bidder shall be disqualified from a bid at the time of bid opening proceeding.
- 5.19.7 The date for opening of bids and the last date for the submission of bids shall be the same,
- 5.19.8 Bids shall be opened at the time specified in the bidding documents.
- 5.19.9 The bid opening date may be extended at the initiative of the company or in writing where the bidders request for such extension 5 days before the opening date stating the reasons for extension and the company shall extend the opening date if the reason for the request for extension is acceptable to it,
- 5.19.10 If the request for extension is accepted, as per the extension bid, the opening date shall be announced using the media the first bid was announced,
- 5.19.11 The reason for extension shall be recorded by the company.

5.20 Evaluating and comparing bids.

5.20.1 Preliminary evaluation.

- a. A company may find a bid complete and qualify that bid for detailed evaluation only if the bid document submitted by the bidder is opened during the bid opening proceeding and complies with the prerequisites and essential requirements stated in the bidding document.

- b.** The company may put a bid for detailed evaluation under the following conditions:
- i. Where the bid does not meet the minimum quality and other essential requirements set forth by the company and, therefore, is found to be non-responsive at first sight;
 - ii. Where the bidder is not willing to accept corrections of Arithmetical errors made pursuant to Article 5.19.1.c
 - iii. Where the bidder does not furnish the bid security or is not willing to furnish the performance bond required by the company;
 - iv. Where the bidder does not produce evidence of facts that need to be proven in connection with the procurement.
- c.** Notwithstanding the provision of article 16.19.1.a above, a company may correct Arithmetical errors detected during preliminary evaluation of bid documents. The company shall promptly notify the bidder in writing of such corrections. If the bidder does not agree to such corrections, the bidder shall be dropped out of the bid proceeding. Where there is discrepancy of unit and total price in the bid document, unit price shall prevail,
- d.** The company may accept a bid as complete notwithstanding that such bid contains elements representing certain variance with the bidding document, in so far as such elements do not alter the conditions of contract and other essential requirements forming the fundamental aspect of the bidding document, or bears minor errors or deviations which can be corrected without affecting the essence of the bid. However, such deviations shall, as far as possible, be expressed in monetary terms to be taken account of in the Evaluation of bids.
- e.** Depending on the complexity of the Capital Goods, the company can establish special bid committee for the technical evaluation or shall use the existing Procurement committee for the technical evaluation ,

5.20.2 Evaluating bids and selecting the successful bidder.

1. The company shall conduct detailed evaluation of bids it receives at the initial stage of the bid proceeding, on the basis of the requirements set forth in the bidding document. The company may not evaluate bids against other criteria than those stated in the bidding document.
2. The company shall conduct the evaluation by applying either of the following methods; as indicated in the bidding document:
 - a. In respect of bids submitted in one envelope, by selecting the bidder offering the lowest evaluated bid from among bidders submitting responsive technical proposals.
 - b. In respect of bids submitted in two envelopes, by selecting the bidder scoring the highest point in the total sum of results of the technical and financial evaluation conducted on the basis of criteria applied to determine the functional value of the capital goods procurement.
3. In conducting detailed evaluation of bids, the unconditional discount offered by bidders shall be considered.
4. If necessary, verification may be done in post qualification to ascertain whether a bidder has the legal competence to transact with the company, or possesses the necessary financial and technical qualification stated in the bidding document.
5. Unless otherwise stated, price offered by bidders in respect of capital goods procurement executed by means of international competitive bidding and the evaluation thereof shall not include any taxes (without custom duty and VAT).
6. Where two bidders get equal merit points in the evaluation, preference shall be given to local capital goods (products) in accordance with article 25/3 of the proclamation.
7. Without prejudice to Article 5.19.2.(6) above, the company may require bidders scoring equal merit points in the evaluation to submit further proposals on certain aspects of the bid with a view to identifying the successful bidder. For the purpose of singling out the successful bidder from among bidders getting equal points in the evaluation,

- a) the number of evaluation criteria shall not be more than three and shall be such that can be expressed in figures;
 - b) The criteria shall be stated in the bid data sheet of the bidding document.
 - c) Bidders scoring equal merit points shall be notified of that fact and such bidders are invited to submit final proposals in accordance with the requirements stated in the bidding document.
 - d) The final proposals submitted by the bidders scoring equal points shall, as far as possible, be opened and read out in their presence. The proposals shall be evaluated and the bidder submitting the better proposal shall be declared the successful bidder.
 - e) Where by reason of the bidders scoring equal merit points not submitting final proposals they are invited to submit, or by reason of the evaluation result of the final proposals submitted by the bidders being still equal, the successful bidder cannot be singled out, the successful bidder shall be determined by casting lot in the presence, as far as possible, of the bidders concerned.
8. To the extent that the criteria the Company applies to select the successful bidder is known, it shall be stated in the bidding document that the quantity of capital goods to be supplied could increase or decrease by 20% without the unit price offered for such goods or the terms and conditions stated in the bidding document being changed.
 9. The company shall complete and disclose bid evaluation results to bidders concerned before the expiration of price validity period offered by such bidders. However, if the Company cannot complete the evaluation within such period, it shall require the bidders to extend their bid price validity period pursuant to article 5.15.4.
 10. Where an invitation to bid attracts only one bidder, the Company may sign contract with that bidder if the proposal submitted by such bidder is satisfactory to the Company and the price offered by the bidder is comparable to or less than

the market price of the required capital goods of procurement; it being necessary to make sure that the failure of the bid to attract bidders is not due to the fact that the content of the bidding document is restrictive of open competition.

11. The company shall prepare an evaluation report, containing a summary of the examination and evaluation of bids,
12. The company shall announce local bid evaluation result in the form of a report giving justification for acceptance or rejection of bids **within seven (7) days** after the bid is opened

5.20.3 Re-advertising bids.

The Company shall issue invitation to bid for a second time under the following circumstances:

- a. Where the company finds it advisable to re-advertise the bid owing to the best price offered by a bidder is significantly higher than the market price estimate of the capital goods of procurement made by the company prior to the issuance of the invitation to bid;
- b. Where it is concluded that noncompliance with the rules and procedures governing bids prescribed by the proclamation and this policy led to the failure of the invitation to bid to attract more than one bidder, or where it is believed that modifying the bidding document could attract adequate number of bidders.

5.21 Preference

5.21.1 Pursuant to Article 25 of the proclamation, with the exception of request for quotation and single source procurements, preference shall be granted in any capital goods procurement to locally produced goods, to small and micro enterprises established under the relevant proclamation.

5.21.2 The preference to be granted to capital goods as per article 5/20/1 shall be effective where it is certified by a competent auditor that no less than 35% of the total value of such products is added in Ethiopia. For the purpose of this sub-sub article, value added in Ethiopia shall be calculated by deducting from

the total value of the product in question, the cost , exclusive of indirect taxes, of imported raw materials and other supplies used in the production of such product abroad in connection with the production of that product.

5.21.3 For small and micro enterprises established under the relevant law,

- a. Preference shall be given by a margin of 3% when such enterprises compete with local suppliers in national competitive bidding.
- b. In lieu of bid security, performance security or advance payment guarantee, a letter of guarantee written by a competent body organizing and overseeing small and micro enterprises shall be accepted.
- c. They shall be entitled to obtain bidding documents free of charge by producing their certificate of registration.

5.22 Cancellation of Bid and Disqualification of bidders

5.22.1 The company shall cancel any bid for the following reasons when:-

- a. The bid document submitted does not comply with the (technical) specification or instruction to bidders,
- b. Bidders are proved for not complying the rules and regulations of the bid and exhibit un accepted relations,
- c. The company discovers that there is some defect in the specification,
- d. The price is much higher than the budget approved and the company is not in a position to negotiate with the successful bidder,
- e. The company up on request communicates to any supplier or contractor who submitted a bid or proposal, the grounds for its rejection of all bids or proposals, but is not required to justify those grounds.

5.22.2 The company may disqualify a bidder for any of the following reasons:

- a. Where a bidder offers to supply the required capital goods of procurement originating in a country in respect of which the government of the Federal Democratic Republic of Ethiopia has imposed trade ban;
- b. Where the bidder offers to supply the required capital goods of procurement originating in a country under trade embargo of the Security Counsel of the

United Nations in which transacting with any business organization or individual who is the national of that country is prohibited;

- c. Where the bidder commits an act of violating the provisions of the proclamation and this policy;
- d. Where the bidder is debarred by a decision of the Agency from participating in capital goods procurements for breach of its obligation under previous contract;
- e. Where it is proved that the bidder has given or has offered to give inducement or bribe to an official or procurement staff of the Company to influence the result of the bid in his favor;
- f. Where it is proved that the bidder has committed an act of embezzlement, fraud or connivance with other bidders.
- g. Where the bidder has failure on his part to fulfill any obligation he has under taken in previous bids,
- h. When the bidder fails to deposit the required bid bond or performance Bond,
- i. Where the bidders Failure to submit bids with all required forms and information and non-compliance of the bidder to the bid requirements

5.23 Discussion with bidders

5.23.1 A Company may hold discussion with bidders in a procurement proceeding only where it encounters extraordinary situations. Such discussions are held for two purposes:

- a) To exchange views with bidders on minute details of a capital goods procurement;
- b) To arrive at a decision through negotiation with bidders on the technical requirements of a bid in procurement to be executed by means of two stage bidding.

5.23.2 Except as provided in article 5/22/1 above, company may not require nor allow bidders to change their offer in regard to price and other essential elements of the bid, apart from seeking bidders to give it clarification on certain points of their proposal for the purpose of evaluation after bid opening.

5.24 Approving bids

- 5.24.1 The company procurement endorsing committee to conduct evaluation of bids in regard to certain procurement shall complete the evaluation and submit the result together with its recommendation, to the Procurement Endorsing Committee or other body having the authority to approve bid evaluation results, within the bid validity period offered by the bidders.
- 5.24.2 The Procurement Endorsing Committee established in accordance with the this policy shall examine the evaluation report in light of the procurement rules and procedures as well as against the requirements of the bidding document and give either of the following decisions:
- a) Approve the evaluation report as a whole and authorize the procurement to Proceed accordingly;
 - b) Reject the report and order re-evaluation.
- 5.24.3 Where the Procurement Endorsing Committee finds it necessary, it may require the persons conducting the evaluation to account for the evaluation report.
- 5.24.4 Where the Procurement Endorsing Committee rejects the report pursuant to article 5.23.2 (b), it shall state the reason for its decision and refer the case back to the evaluation team with instruction for the team to follow in re-evaluating the bids in question. The evaluation team shall conduct re-evaluation in accordance with the instruction of the Procurement Endorsing Committee and report the result back to the committee.
- 5.24.5 Notwithstanding the provision of article 5/23/4 above, the evaluation team or a member thereof objecting to the decision of the committee and the corrective instruction given by the committee has the right to record its/his dissenting opinion. However, the procurement shall be executed in accordance with the decision of the committee.

5.25 Announcing the successful bidder

5.25.1 The company shall announce the result of a bid evaluation to all bidders alike at the same time. The information to be disclosed to the unsuccessful bidders shall be the reason why they did not succeed in their bid and the identity of the successful bidder.

5.25.2 A letter of award to be sent by the company to a successful bidder shall not constitute a contract between him and the company. A contract shall be deemed to have been concluded between the company and the successful bidder only where a contract containing detailed provisions governing the execution of the capital goods procurement in issue is signed.

5.25.3 A letter of contract award to be sent to a successful bidder shall contain the following information:

- a) That the Company has accepted his bid;
- b) The total contract price;
- c) The amount of the performance security the successful bidder is required to furnish and the deadline for providing such security.

5.25.4 Where the successful bidder cannot or is unwilling to sign a contract, the company may either declare the bidder submitting the second most preferred bid the successful bidder or invite such bidder to sign a contract or advertise the bid afresh by assessing the benefit of the two options.

5.25.5 The company shall return to the bidders their bid security on the following conditions:

- a) If the successful bidder has signed contract and furnished the required contract security;
- b) If the bid validity period initially offered by a bidder not willing to extend such period has expired or if a bidder is unsuccessful.

5.25.6 The contract shall not be signed by the company before the period to submit complaint has lapsed.

5.26 Performance Security

- 5.26.1 Except for procurements executed by means of by quotations and direct procurement of capital goods, the company has to require a supplier under contract with it to furnish performance security in any procurement.
- 5.26.2 The Successful bidder has to provide performance security within fifteen days from signing a contract in the amount of at least ten percent (10%) of the total contract price, in the mode and manner prescribed in article 5.16.4 of this policy.
- 5.26.3 Where a supplier fails to discharge its/his obligation in accordance with the terms and conditions of the contract, the company shall exercise its right over the security and demand or confiscate in whole such security, as the case may be.
- 5.26.4 Notwithstanding the provision of article 5.25.3 above, the performance security may be returned to the supplier where the Procurement Endorsing Committee ascertains that the noncompliance of the supplier does not affect the interest of, or entail additional cost on the company and is not due to the fault of the supplier.
- 5.26.5 The company shall be required to submit any document in its possession in relation to a capital goods procurement in which it authorizes the return of the performance security to a supplier and account for its action under the preceding sub article 5.25.4 of this policy to the BOD or other competent body if and when required to do so.
- 5.26.6 Unless the parties agree otherwise, the performance security furnished by a supplier shall be returned to him upon complete performance of the contract.

5.27 Advance payment

- 5.27.1 In any capital goods procurement, advance may be paid in an amount not exceeding 30% of the total contract price. The amount to be paid in advance shall be stated in the instruction to bidders.

5.27.2 Suppliers shall submit advance payment security in an amount equal to the advance payment they receive in the form of a certified cheque or unconditional bank guarantee at their option from a reputable bank, together with their request for advance payment as per the contract.

5.27.3 Notwithstanding the provision of Article 5.26.2 above, local manufacturers of capital goods may submit conditional advance payment security from reputable insurance company.

5.27.4 Without prejudice to the provision of article 5.20.3(b) hereof, in respect of small and micro-enterprises, a company may, where appropriate, require the opening of special bank account into which the advance payment may be deposited, which shall be withdrawn by joint signature of the representative of the company and the supplier for payment of capital goods procurement arising from the performance of the contract.

5.27.5 Where in accordance with article 5.26.3, the advance payment security provided by a supplier in the performance of a capital goods procurement of contract is conditional, or in respect of advance payment made in favor of a small and micro-enterprise in accordance with article 5.26.4, the company shall enter into special agreement with the supplier or the small and micro-enterprise as the case may be, for the use of the advance payment. Such agreement *inter alia* includes the following:-

- a) That the advance to be paid to the supplier or the small or microenterprise in accordance with the agreement shall be deposited in a special bank account to be opened for this purpose in the name of the supplier or the small or micro-enterprise.
- b) That the advance to be deposited in the account to be opened as per (a) above can only be with drawn by joint signature of the company and the supplier

5.28 Signing of Contract

5.28.1 The company has to sign with a supplier, an agreement containing the general conditions of contract forming an integral part of the bidding document and the special conditions of contract to be agreed upon by and between it and the supplier.

5.28.2 Unless a agreement is signed between the company and the supplier, mere notification of award doesn't constitute a contract between the company and the supplier.

5.28.3 The contract to be signed between the company and the supplier shall clearly state the obligations of the two parties and incorporate provisions, inter alia, for the following matters:-

- a) The type, quality and quantity of capital goods to be supplied, as per the contract, the manner and schedule of delivery of such goods, the unit and the total price to be paid for such goods, and the terms and schedule of payment.
- b) Identifying the party responsible for securing the provision of incidental services (Transport, Insurance, transit etc) from third parties, it being necessary to obtain such services from reliable sources,
- c) Discount and other offers proposed by the supplier in its bid document and the application of such offers,
- d) Procedure for resolution of disputes that may arise in the performance of the contract,
- e) The portions from the total payment to be effected in foreign and local currency for a foreign supplier,
- f) Procurement document forming an integral part of the contract and the scope of application of such documents.
- g) The conditions giving rise to forfeiture of performance security,
- h) The liability of the supplier for delay in supplying the goods, performing the works or rendering the services as per the contract.

5.28.4 The liability of the supplier for delay in performing his/its obligation under the contract shall be as follows:-

- a. He/it shall pay a penalty of 0.1% or 1/1000 of the value of undelivered item for each day of delay,
- b. The cumulative penalty to be paid by the supplier shall not exceed 10% of the contract price.
- c. If the delay in performing the contract affects its activities, the company may terminate an agreement by giving advance notice to the supplier, without any obligation to wait until the penalty reaches 10% of the value of the contract.

5.28.5 The company has to carefully consider the obligations and liabilities it may have to assume under a contract; it may not sign a contract involving obligations that it cannot fulfill.

5.28.6 Subject to article 5.27.7 of this policy, unless an exceptional situation arises, the successful bidder has to sign a contract with the company within 15 days of notification of award.

5.28.7 The company shall not sign a contract before seven working days from the date bidders are notified of the result of their bid or of any complaint against the bid proceeding.

5.28.8 The contract document should be signed and stamped by both parties at the presence of witness,

5.28.9 The contract is governed by the laws of the land,

6 Procedure of International procurement

6.1 Procurements by means of International competitive Bidding shall be made in accordance with article 59 of the Proclamation and this article.

6.2 Subject to the provision of article 59 (1) of the Proclamation, capital goods procurement may be made by means of international competitive bidding if the value of the contract exceeds the threshold **for capital goods above Birr 10,000,000.00**

- 6.3** The company shall use international bid to purchase Capital Goods or services that are not available in the required quantity at local market or the international Bid shall be issued when the quality of the Capital Goods or services to be purchased from international market are preferred in terms of quality,
- 6.4** If the Bidders for capital goods procured with international bid are not manufacturers of the capital goods to be procured they are required to bring certificate of evidence that shows the supplier is agent of the manufacturer if required by the company.
- 6.5** Bidders participating in procurement of capital goods made by means of international competitive bidding have to produce manufacturers authorization if a company requires them to do so, unless they themselves are manufacturers of such goods,
- 6.6** In addition to the procedure of national competitive bidding set forth in article 5 of this policy, capital goods procurements made by means of International Competitive bidding shall comply with the following procedure:-
- a) The bid advertisement and the bidding documents shall be prepared in English,
 - b) The bid advertisement shall be published in a newspaper that has wide circulation and accessible to foreign bidders, the bid advertisement shall be posted on the company's website if the value of the procurement is above the threshold stated in article 6.2 of this policy.
 - c) Bidders must be given adequate time to prepare bid documents in response to the invitation to bid in accordance with article 5.9 of this policy.
 - d) The schedule of requirements to be prepared shall comply with national standard and be internationally acceptable.
 - e) Bid prices offered by foreign bidders shall be quoted and bid securities required of such bidders shall be furnished in a freely convertible currency used for payment in international commercial transactions.
 - f) Where a foreign bidder uses local inputs to satisfy the required capital goods procurement under the contract, the portion of the portion of the total contract price representing such local expenditure shall be expressed in birr in the price schedule of the bidder price representing such local expenditure shall be expressed in birr in the price schedule of the bidder.

- g) An agreements concluded for procurements to be made by means of international competitive bidding may incorporate standard terms and conditions applicable in international commercial transactions to the extent that such terms and conditions are not in conflict with the Proclamation, this policy and other documents governing capital goods procurement
- h) Unless the contract provides otherwise, disputes arising from the performance of the agreement shall be adjudicated in accordance with Ethiopian Law.

7. Other International Procurement procedures

- 7.1 Where the participation of foreign companies is believed to be necessary to carry out adequately competitive and effective procurement, the company may, without prejudice to certain aspects of National & International Competitive bidding procedures set forth in the Proclamation and this Directive which are appropriate to the particular method of procurement in question, may execute International Procurement by means of two stage bidding, request for proposals, restricted bidding, request for quotation or direct procurement pursuant to article 59(4) of the Proclamation.
- 7.2 In carrying out International Procurement by means other than International competitive bidding pursuant to article 7(1) above, the conditions and financial thresholds prescribed for each method of procurement shall be complied with.

8. Procurement by means of two stage Bidding

- 8.1 Subject to the provisions of article 57 and 58 of the Proclamation, procurement made by means of two stage tendering shall be carried out in accordance with the procedures set forth for national or international competitive bidding, as the case may be, in article 5 or 6 of this policy respectively.
- 8.2 Notwithstanding the provision of article 8.1 above, the following bid procedures shall apply in respect of two stage bidding:-
 - 8.2.1 It shall be stated in the invitation to bid that the capital goods procurement shall be carried out by means of two stage bidding,
 - 8.2.2 Candidates shall not be required to furnish bid security during the first of the two stages bidding,

- 8.2.3 Since the purpose of the first stage is to draw up detailed schedule of requirements based on proposals from candidates, the bidding document prepared by the company for the first stage shall state the requirements of the company in general terms and incorporate the necessary description and questionnaires.
- 8.2.4 The technical proposal submitted by candidates during the first stage shall be opened in the absence of the candidates in the manner stated in the invitation to bid.
- 8.2.5 The first stage evaluation shall focus on examining the proposals submitted by candidates at the first stage to identify the schedule of requirements necessary and the bidders qualifying for the second stage bidding. During the first stage evaluation, the company may also hold discussion with all, some or one of the candidates as necessary. The discussion to be conducted accordingly shall aim at creating better understanding of and develop the proposal/proposals submitted by the candidates.
- 8.2.6 The bidding document to be proposed for the second stage bidding shall as far as possible comply with the procedure of competitive bidding set forth in article 5& 6 of this policy.
- 8.2.7 Invitation shall be sent to the candidates whose proposals have been accepted in the first stage bidding to participate in the second stage bidding. Such bidders shall be required to furnish bid security.
- 8.2.8 The company shall send to such bidders or require them to collect person the bidding document prepared for the second stage bidding.
- 8.2.9 The invitation to bid sent to the candidates pursuant to article 8.2.7 above shall state clearly the requirements they have to fulfill to obtain the bidding documents.

9. Pre-qualification bid

- 9.1 Where, in view of the particular nature of the capital goods procurement, the company finds it necessary to prequalify bidders, it may invite national or International prequalification bids as the case may be.
- 9.2 Capital goods procurements requiring prequalification bids should satisfy at least one of the following criteria:-

- a) Where the capital goods procurement pertains to a work of design, manufacturing or installation of a very high value or complex nature, or
- b) Where the procurement pertains to supply of capital goods considerable importance and includes installation, or
- c) Where the cost of drawing up bidding documents is so high that only pre-qualified bidders should participate in the bid.

9.3 It shall be stated in the invitation to bid that the bid is for prequalification.

9.4 Bidding documents for pre-qualification shall be prepared in conformity with the standard bidding document concerning pre-qualification issued by the agency. Without prejudice to the fact that the criteria applied in selecting pre-qualified bidders vary from one type of procurement to the other, bidders under prequalification screening shall be required to produce evidence in proof of the following facts to demonstrate their qualification:

- a) the experience of the bidder enterprise in producing the good, rendering the service or executing the work required;
- b) the capability of the enterprise to deliver the required capital goods of procurement, in terms of having adequate human power, machinery, equipment and complete infrastructure,
- c) that the enterprise has good reputation and financial standing that enables it to perform its obligations under the contract

9.5 Evaluation of bids shall be conducted in accordance with the criteria formulated by the company to evaluate pre-qualification bids.

9.6 No restriction shall be imposed in the number of bidders passing to the second stage bidding as long as such bidders have pre-qualified.

9.7 The company may allow bidders participating in a prequalification bid to compete in Joint venture or partnership. However, bidders who have prequalified individually shall not be allowed to compete in Joint venture or partnership unless it is established that the joint venture or the partnership does not narrow the scope of the competition.

9.8 Notwithstanding the provision of article 9/6 above, bidders participating in pre-qualification bid as joint venture or in partnership and pre-qualifying as such shall not be allowed to compete individually in the next stage bidding.

- 9.9 The result of the pre-qualification evaluation approved by the appropriate authority of the company shall be disclosed at the same time to all bidders participating in the bid regardless of whether such bidders have prequalified.
- 9.10 A company may not sign a contract with a bidder declared to successful, if the information given by such bidder in regard to its qualification, in its prequalification bid is found to be wrong, or if it is established, with reasonable degree of certainty, that it no longer possesses the capability on the basis of which it pre-qualified, and hence, cannot perform the contract on the expected level.
- 9.11 The preparation of the bidding document to be sent to the respective addresses of the pre-qualified bidders or to be collected by such bidders in person and the rest of the capital goods procurement process shall be carried out in accordance with the national or international competitive bidding procedure established by the proclamation and this policy.

10 Procurement by Restricted Bidding

- 10.1 Procurement made by means of restricted tendering pursuant to **article 49.1of** the proclamation shall be executed in accordance with national or International competitive bidding procedures set forth in articles 5 and 6 of this policy.
- 10.2 Capital goods Procurement made by means of restricted tendering shall be carried out in compliance with the following rules.
- 10.2.1 The invitation to bid shall be sent directly to the address of the candidate and:
- a) If the required capital goods of procurement is available only with limited suppliers, the invitation to bid shall be sent directly to the respective addresses of those suppliers
 - b) At least five candidates shall be selected in a fairly manner from the suppliers list if the value of the procurement falls within the threshold set forth in article 10.3 of this policy for capitals goods procurement by restricted bidding, notwithstanding that the number of prospective bidders is large.
- 10.2.2 The company shall not disclose the identity of candidates invited to participate in a procurement by restricted bidding

- 10.2.3 If all the candidates invited to participate in a capital goods procurement by restricted bidding have submitted their bid documents before the date set for expiration of the floating period, the company shall fix a new date for bid opening and communicate this to all candidates to be present on that date without having to wait until the initial closing date.
- 10.2.4 The company in its discretion may waive collecting from candidates charges for bidding documents and send to such candidates the bidding document together with the invitation to bid.
- 10.2.5 Pursuant to the provision of article 5(4) of the proclamation, if the Company is of the opinion that in view of their limited number, requiring the candidates to furnish bid security discourages them from participating in the bid. It may, in lieu of bid security, require them to sign bid declaration form attached as **annex 5** to this policy and submit such form with their bid documents.
- 10.3 Without prejudice to the provision of article 10.2 above, the total contract value of a procurement made by restricted bidding **for Procurement of Capital Goods Birr 3,500,000-5,000,000.00**
- 10.4 The company shall select candidates to be invited from suppliers list. Any selection shall allow equitable opportunities for suppliers on the list. The company ensures the short-listed candidates by notification:
- a. The place and time for opening of the bids
 - b. Those bidders or their authorized representatives are allowed to attend the opening.
 - c. The number of suppliers to whom the invitation to bid is sent shall be such that it is sufficient to ensure effective competition and shall not as far as possible be less than five competitors.
 - d. The company determines during bid process whether it is necessary to require the candidates to submit bid security.
- 10.5 **To carry out procurement by means of restricted bidding pursuant to article 49.3 of the proclamation, the following conditions must be satisfied in the order in which they are listed.**

- 10.5.1 Invitation to open bid for the procurement must have been published at least twice, and the invitation must have attracted no bidder, or the bidder or bidders responding to the second invitation to bid must have failed to meet the technical requirements set forth by the company for that procurement
- 10.5.2 There must have been no factor associated with the invitation to bid, or amount of bid security, bidding document or any other element of the procurement process, restraining candidates from participating in the bid.
- 10.5.3 The company must have believed that inviting suppliers engaged in the field pertaining to the object of procurement to participate in the procurement by restricted bidding attracts such suppliers to participate in the procurement.
- 10.5.4 The company must, as far as possible, have established through inquiry that the suppliers engaged in the field have no ulterior reason for not wanting to participate in open bid for the procurement, which is illegitimate or prejudicial to the interest of the company.
- 10.6 Without prejudice to the provisions of sub articles 10.1 through 10.4 of this article, the procedure of national competitive bidding set forth in article 5 of this policy shall apply to procurements made by means of restricted bidding.

11 Procurement by Request for Quotations

- 11.1 The company may engage in procurement by means of request for quotations for the purchase capital goods for lessees depend on the nature of the capitals goods so long as the estimated value of the capital goods does not exceed an amount stated in the procurement policy to be issued by the company.
- 11.2 The company can purchase capital goods by **price quotation** (Proforma) when a single price of Capital Goods birr 50,000.00 up to birr 3,500,000.
- 11.3 The company can purchase Capital Goods by requesting pro forma as follows,;
- 11.3.1 For the procurement of birr 50,000.00 up to birr 3,000,000 the Capital Goods requesting MSMEs to identify suppliers and negotiate the price of the machinery by themselves and then to present the quotation to the Company. The company after ensuring whether the quotation presented is fair market price, to conduct (effect) the payment.

- 11.3.2 In addition ,if the MSMEs cannot identify supplier and negotiate for price by themselves and if delegates the company to procure on behalf of them, the company can purchase the capital Goods of the range of the stated amount on behalf of the MSMEs through collecting pre forma.
- 11.3.3 For the procurement between birr 3,000,001.00 up to birr 3,500,000.00, the company with lessee to buy through collecting at least three per forma from known suppliers of machineries. The MSMEs should agree with the price and specification of the machineries before the company effect the payment.
- 11.3.4 Whereas, where the committee cannot find three per forma for the procurement under this range (amount) and also confirm this condition (inability to find three per forma) through the committee minute, the company may use direct procurement buy through one per forma in the situation when only one per forma is collected.
- 11.4 In any procurement of capital goods made by means of request for quotation, not less than three candidates, as far as possible, shall be selected from the suppliers' list in compliance with the following rules to ensure fairness in the selection:
- a) Unless the interest of the company requires otherwise, the same supplier or suppliers shall not be selected repeatedly, so that other suppliers in the suppliers list may have the opportunity of competition to sale to the company.
 - b) The company has to establish a system to prevent possible acts of connivance in offering and accepting price in the process of capital goods procurement by request for quotation and carry out price verification regularly in accordance with article 11.8 below.
- 11.5 Each candidate shall be allowed to quote a firm price which may not be changed. No negotiation shall be allowed between the company and the candidate on the price quoted by the candidate.
- 11.6 The successful supplier shall be selected on best price basis, by comparing supplies meeting the quality characteristics of the company's requirements as described in the specification.
- 11.7 For the purpose of evaluation, prices offered by suppliers in response to a request for quotation shall not include Value Added taxes.

- 11.8 For the purpose of price verification in regard to procurements made by means of request for quotation, company shall refer to the current price list posted on the Agency's website and to the price survey carried out by the procurement unit of the company and accepts the lowest price in respect of an item as the prevailing market price of that item.
- 11.9 In procurement made by request for quotation, the Proforma, a supplier presents to the company and the letter of purchase order sent by the company to that supplier constitutes a contract between the company and the supplier. Hence, it is not necessary for the company and the supplier to sign a contract.
- 11.10 Company may not split procurements merely to take advantage of provisions governing procurements by request for quotation.

12 Single source procurement

- 12.1 The company can purchase capital goods directly from sole suppliers where the suppliers are Government affiliated companies or the suppliers are certified and known as sole suppliers for the Capital Goods that to be procured.
- 12.2 The company may use direct procurement only where the following conditions are satisfied:
- a) When in the absence of competition for technical reasons the Capital Goods can be supplied or provided only by one candidate or supplied or provided by the manufacturer in the country.
 - b) Additional deliveries of Capital Goods by the original supplier which are intended either as parts replacement of existing Capital Goods installations or as the extension of existing Capital Goods installation where a change of supplier would compel the company to procure equipment or services not meeting requirements of interchangeability with already existing Capital Goods;
 - c) Within limits defined in this procurement policy, for new Capital Goods consisting of the repetition of similar capital goods which conform to a basic business of which an initial contract has been awarded on the basis of open or restricted bidding;

- d) When the head of the company has determined that the need is one of pressing emergency in which delay would create serious problems and therefore injurious to the performance of company;
- e) Where situations arise in which shopping becomes necessary to meet the special procurement needs of company.
- f) For purchase of capital goods made under exceptionally advantageous conditions which only arise in the very short term. This provision is intended to cover unusual disposals by firms, which are not normally suppliers. It is not intended to cover routine purchases from regular suppliers.
- g) The company may use direct procurement if this method is not with a view to avoid possible competition or in a manner which would constitute a means of discrimination among candidates:

12.3 The company shall ensure that this method is not resorted to with a view to avoiding possible competition or in a manner which would constitute a means of discrimination among candidates.

12.4 When the company engages in direct procurement it shall prepare a description of its need and any special requirement as to quality, quantity, terms and time of delivery and shall be free to negotiate on price and conditions of offer with the sole candidate. Any agreement reached to conduct procurement shall be confirmed by contract signed by both parties,

12.5 The salient points to focus in the negotiation of contracts for direct procurements shall be approved by the Executive Managing Director of the company and communicated to the negotiators,

PART V

Contract Administration

13 Implementing procurement contracts

- 13.1 Unless faced with a situation preventing or postponing the execution of contract, the company has to implement any procurement of capital goods contract they have signed with suppliers promptly.
- 13.2 The company has to fulfill conditions established in a contract to expedite the implementation of the contract as provided in article 13.1 above. These conditions may include the following:-
- a. If the contract provides for advance to be paid to the supplier, effect such advance payment to the supplier against advance payment guarantee in accordance with the provision of this article.
 - b. Open letter of credit (L/C) promptly in respect of a procurement requiring the issuance of letter of credit in favor of a supplier.
 - c. Fulfill such other conditions as are stipulated in the contract.
- 13.3 The company has to identify the duties of a supplier under a contract and insure that the supplier performs such duties in due time.
- 13.4 The company has to record the date on which the actual implementation of the contract has begun upon fulfillment of precondition set forth in the contract for the actual implementation of the contract and, if necessary, notify this to the supplier.

14 Follow Up of Performance of Contracts

- 14.1.1 The company has to identify the party responsible for following up the performance of a contract or make sure that the parties involved in following up the performance of a contract are aware of their duties. (Where the task is carried out through coordination of more than one parties)
- 14.1.2 The procurement unit within a company responsible for monitoring performance of procurement contracts has to make sure that the supplier delivers the principle tasks under the contract in accordance with the agreed work schedule.
- 14.1.3 The company has to carry out the following activities of contract administration as per the contract agreement.
- a. Effect payment or payments due in installment to the supplier on time.

- b. Give certificates of performance to the supplier
- c. Provide legitimate support to the supplier to enable him performs his obligation under the contract.

14.1.4 Where it is called for, the contract may be amended in the course of its performance; it being understood that such amendment shall not be detrimental to the interest of the company and not favor one supplier or certain suppliers to the prejudice of the other suppliers.

14.1.5 The company shall carry out the following activities in connection with the following up of performance of contracts:-

- i. Open letter of credit (L/C) in accordance with the terms and conditions of the contract.
- ii. Handle acceptable requests of amendment of letter of credit (L/C) promptly
- iii. Exercise caution and follow-up so that the validity period of a performance bond, L/C or guarantee does not expire before the supplier fulfills his/its obligation to the company under the contract.
- iv. Follow up that works are completed on schedule agreed in Goods are supplied within the time stipulated in the contract.
- v. Take the necessary precaution to prevent in the performance of a contract that give rise to claims by suppliers

15 Completion of a Contract

15.1 The company has to ensure that the performance of a procurement contract is completed with the terms and conditions of such contract being complied with and other transactions incidental to such contract being finalized.

This involves ensuring that:-

- a) The supplier has delivered the capital goods to be supplied under the contract.
- b) Proper follow up is maintained and appropriate decision is taken in regard to securities and warranties.
- c) For all payments made to the suppliers, the corresponding obligations owed by such suppliers to the company are satisfied and all payments due to the suppliers under the contract are effected.

- d) All rights of the company arising from the contract and involving third parties such as Insurance companies, transporters, custom Authority, transistors, Banks are satisfied and the company has performed its obligation towards such third parties,
- 15.2 The company shall settle pending accounts with the suppliers and third parties involved in the performance of the contract.

PART VI

Miscellaneous provisions

16. Records of Capitals Goods Procurement

16.1 The company shall maintain records of procurements listed in article 23 of the proclamation and other pertinent documents.

16.2 The time for which such records shall be kept corresponds to the time to be stipulated in the financial Administration Regulations to be issued pursuant to article 73 of the financial administration proclamation of the federal government, proclamation no 648/2001.

17. Registration of Suppliers

The company registers the suppliers who supply of capital goods in the supplier list in its data base.

18. Reserved Right of the Company

The company shall reserve the right to reorder procurement of Capital Goods from the supplier selected as per the bid process before or within six (6) months after the signing of contract. However, the reorder amount shall not exceed 25% of the original quantity with no change in price stated in the original bid document.

19. Duty to Cooperate

All authorities and employees of the company at all level shall have the duty to cooperate with the company in the enforcement and implementation of this manual.

20. Black Listing Suppliers

- a) A supplier who has failed to fulfill any of its contractual obligations with the company shall be suspended from bids announced by the company,
- b) The company shall notify the supplier in writing that it is suspended from the bid announced by the company for its previous default.

21. Legality of bidders

The company shall purchase goods and services from and sell a bid documents to suppliers who has:-

- a) Valid Trade License;
- b) Paid all taxes at least for the last financial year;
- c) Been registered for VAT in accordance with the relevant law;

- d) Submit TIN Certificate;
- e) Been registered in supplier's list

PART VII

Ethics in Capital Goods procurement

22. Professional ethics expected of persons engaged in Capital Goods procurement.

Any employee or person of the company in a position of responsibility involved in capital goods procurement shall observe the following and other rules of ethics:-

22.1 Where an employee or a person in a position of responsibility involved directly in capital goods procurement realizes that the decision he makes in respect of any procurement proceedings conflicts with the interest of himself or his family, he shall notify this in writing to the CEO of the company and withdraw from that particular procurement process.

22.2 Where a company receives information from any source that an employee or a person in a position of responsibility engaged in capital goods procurement is involved in a conflict of interest in the exercise of his duty,

22.2.1 It shall require the person concerned to respond to the allegation in writing

22.2.2 The company shall determine whether the allegation of conflict of interest is true on the basis of the response given by the person whom the allegation concerns pursuant to article 18/1 above and other evidence gathered by any means it considers appropriate.

22.2.3 Where the company ascertains as per article 18.2.2 above, that the person whom the allegation concerns is in fact involved in a conflict of interest in connection with his duty:-

- a. It shall remove the person from that procurement process

- b. It shall cause decisions given in participation of that person in connection with that procurement process to be reviewed.
- c. It shall take disciplinary measures on that person unless it is convinced that the failure on the part of that person to notify the company of the fact of his involvement in a conflict of interest is due to lack of awareness.

22.3 Any employee or person in a position of responsibility involved directly or indirectly in capital goods procurement shall refrain from committing an act which is prejudicial to equal opportunity of candidates or suppliers to compete in a bid or enter into a contract with a company in any capital goods procurement. For this purpose, the company have to ensure that:-

- a. In inviting bids for procurement, all candidates have adequate information, that is, a bidding document contains clear and complete information enabling candidates to participate in the bid and come up with responsive bids.
- b. That the evaluation criteria and schedule of requirements embodied in a bidding document is not prepared in such a manner as to favor a particular candidate.
- c. That the result of a bid evaluation is made known to all bidders at the same time
- d. The obligation of suppliers in a procurement contract is not deliberately made simple or onerous in favor or against a supplier and, as far as possible; the terms of contracts to be signed by various suppliers for similar procurements are more or less similar.
- e. Payment, monitoring, exchange of information or other activities pertinent to contract administration are applied indiscriminately to all suppliers.

22.4 Employees or persons in a position of responsibility engaged directly or indirectly in capital goods procurement shall not accept gifts of any kind which

influences or has the potential to influence their action or decision in the exercise of their duty. For the purpose of this sub-article, such persons shall observe the following ethical precepts:-

Without prejudice to article 22.4(e) below:-

- a. Not to accept gift which has monetary value especially from a supplier or a candidate to the company or.
- b. Not to accept offer of employment for himself or his family.
- c. Not to accept special discount or service in his private transaction with the person who is a supplier to the company or candidate.
- d. Not to accept an invitation, which is likely to influence his action or decision in relation to his duty; however, he may accept invitation which does not involve travel or an invitation in which the inviter has no business relation with the company.
- e. Notwithstanding the provision of article 22.4 (a) above, such person may accept items which are freely distributed for the purpose of promotion or advertisement and not for sale.

22.5 Any employee or person in a position of responsibility has the obligation to notify to the appropriate body, any act of corruption intended or perpetrated. For the purpose of this article:-

- a) It is necessary to make sure that the allegation is supported by evidence.
- b) Isolate oneself from any act facilitating or assisting the intended act of corruption.

22.6 An employee or a person in a position of responsibility has to keep in secret any confidential information of the company, candidates or suppliers which he came to know of on account of his duty. For this purpose,

- a) no information shall be disclosed to any third party which is likely to restrict competition or helps bidders to derive unfair advantage or which is detrimental to the interest of the company except by order of a competent court or by special permission of the head of the company.

- b) Keep in secret decisions and other information of the company in dealing with suppliers in the execution of contracts,
- c) Not to disclose information of bidders and bid evaluation results to any third party before such information is made the procuring company.

23. Ethics Expected from Candidates

Any candidates or suppliers in who supplied or involved in the capital goods procurement shall observe the following principles of ethics.

- a. no candidate or supplier shall give gift either by himself or through a third party, to an employee or a person in a position of responsibility engaged directly or indirectly in capital goods procurement.
- b. Any candidate or supplier shall disclose to the company information which he is aware of and which he considers helpful to the company in making decisions in regard to a bid proceeding or contract administration.
- c. He/it shall not connive with other bidders in an offer of price and shall not exchange information which is harmful to the interest of the company nor use other bidders documents or information in a bid proceeding conducted by company
- d. Disclose to the appropriate body an intended or perpetrated act of corruption of which he is aware, and not to be complicit in such an act.

PART VIII

Procedure of Review of complaints presented to the company

24. The right of complaint of a candidate or a bidder

A candidate or a bidder aggrieved or is likely to be aggrieved on account of a company inviting a bid not complying with the provisions of the proclamation or this policy in conducting a bid proceeding may present complaint to the head of the company or to the secretariat to have the bid proceeding reviewed or investigated.

25. Matters in respect of which complaint may not be lodged

Complaint may not be lodged in respect of the following matters:

- a. The selection of procurement method carried out in accordance with the conditions established in this policy.
- b. The selection of bidders for capital goods procurement to be made by means of restricted tendering or request for quotation or on the evaluation criteria set forth in the bidding document beforehand.
- c. Decisions given to reject bids, bid documents or price quotation pursuant to article 30 of the proclamation.
- d. no complaint presented to the head of a company after 5 working days have elapsed from the date on which the company disclosed the result of a bid evaluation, or no complaint presented to the board after 5 working days have elapsed from the date on which the company responded to the complaint shall be accepted.
- e. no complaint shall be accepted after a contract was signed, provided that such contract was signed after seven working days from the result of the bid evaluation being disclosed as provided .

26. Procedure for review of complaints presented to the head of a company

26.1 Before a procurement contract is signed:-

- a) the company conducting bid proceedings shall wait for seven working days after disclosing the result of the bid evaluation or after responding to a complaint, to give bidders time to present complaint, if any, against the conduct of the bid proceeding or against the decision of the company on such complaint

- b) candidate or a bidder aggrieved in connection with a procurement proceeding shall within 5 working days of when he became aware of or should have been aware of the reason giving rise to the grievance, may submit his complaint to the Executive Managing Director. A complaint submitted to the Executive Managing Director of the company thereafter may not be entertained.
- c) Unless the complaint is resolved by mutual agreement of the candidate or bidder that submitted it and the company conducting the procurement, the head of the company shall give decision on the complaint in writing within ten working days from the date of submission of the complaint Pursuant.
- d) The company shall give to the complainant a copy of the decision within 5 working days from the date in which the decision was made.

26.2 Bid submitted by two envelopes

Without prejudice to the forgoing provisions concerning procedure of complaint, in a bid in which bidders are required to submit technical and financial proposals in two separate envelopes:-

- a. The company shall communicate the result of the technical evaluation in writing to all bidders at the same time.
- b. The company shall indicate in the letter in which it discloses the result of the technical evaluation to each bidder that any bidder claiming that the technical evaluation has not been conducted in conformity with the proclamation, this policy or the bidding document has the right to present his complaint to the Executive Managing Director of the company within 5 working days of being notified of the result.
- c. A bidder who can prove that the decision given by the Executive Managing Director of the company on the complaint lodged by him concerning the conduct of the technical evaluation is not in conformity with this policy or the bidding document may present his complaint to the Board of Directors of the company within five working days of being notified of the decision.

- d. A company may open the envelopes containing the financial proposals after 5 working days from the date of notification of the result of the technical evaluation to the bidders. However, if a complaint is presented to the BoD in due time against the decision of the Executive Managing Director of the company on the complaint previously lodged by a bidder concerning the technical evaluation, The company shall keep the envelopes containing the financial proposals unopened until the board gives its final decision on the case.
- e. A procurement proceeding in respect of which a complaint is lodged shall be reviewed only in accordance with the proclamation, this policy and the bidding document.

26.3 The obligation of a procurement unit to suspend a procurement proceeding

1. The company procurement unit shall suspend a bid proceeding if it ascertains that a complaint is presented to Executive Managing Director of the company in regard to a bid proceeding within the time stated in article 26.2 (b) above, until the head of the company gives decision on the complaint.
2. Any decision made by a company in regard to a procurement proceeding and the reasons on which the decision was based shall be kept as part of the record of that procurement proceeding.

26.4 Procedure for presentation to and review of complaints by the BOD

- a. a bidder may submit a complaint to the board within five (5) working days of notification in writing of the decision of the Executive Managing Director of the company on that complaint if the bidder is not satisfied by the decision of the company or where the Executive Managing Director of the company does not give decision on such complaint within ten working days as provided in article 74.3 of the proclamation, within five days following the last day on which decision should have been given by the

company. A complaint submitted to the Board of Directors after such date may not be entertained.

- b. A bidder presenting complaint to the BoD of the company shall attach to the application of his complaint a copy of the letter of the complaint submitted to the Executive Managing Director of the company and a copy of the decision of the company on the complaint if such decision was given by the company and other relevant documents.
- c. on receipt of the bidders complaint, the BoD of the board shall send a notice to the company informing the company that a complaint is lodged against it, and instructing it to submit within five working days its statement of response together with the record of the procurement proceeding in respect of which complaint was lodged and to suspend the procurement proceeding until the board decides on the complaint.
- d. The company against which the complaint is lodged has to make sure that the documents it is required to send to the board in connection with the complaint are received with in five (5) working days from the date of notification.
- e. the board shall review the complaint against the bidding document issued by the company, the bid document submitted by the complainant to the company in response to the invitation to bid, the bid evaluation report and other documents relevant to the capital goods procurement in respect of which the complaint was lodged and decide on the complaint in accordance with the proclamation, bid document and this policy.
- f. The board shall give its decision in writing to the complainant and the company within fifteen (15) working days of receipt of the company's statement of response.
- g. The board shall send forthwith copies of the decision of the board to the complainant and the company.

27. Force Majeure

27.1 Force majeure results from an occurrence which the supplier could normally not foresee and which prevents him absolutely from performing his obligation.

27.2 The following occurrences may accord the circumstances, constitute cases of force majeure.

- a. An official prohibition preventing the performance of a contract,
- b. A natural catastrophe such as an earthquake, lightening or floods, or
- c. International or civil war, or
- d. The death or a serious accident or unexpected serious illness of the supplier
- e. Other instances of force majeure identified as such by the civil code.

27.3 Unless otherwise expressly agreed in a contract, the following occurrences shall not be deemed to be cases of force majeure.

- a. a strike or lock-out taking of a party or affecting the branch of business in which he carries out his activities, or
- b. an increase or reduction in the price of raw materials necessary for the performance of the contract, or
- c. The enactment of new legislation where by the obligations of the debtor becomes more onerous.

28. REVIEW BY COURT

A supplier who is aggrieved by the decision of the company or Board of Directors of any other, administrative organ may take the matter to the competent court.

PART IX

Repealed Directives and Effective Date

29.Repealed policy

The Oromia Capital Goods Finance Business Share Company Capital Goods procurement policy issued in July, 2014 and the amendments thereto are hereby repealed and replaced by this policy

30.Approval and AMENDMENT

This policy may be amended at any time once in a year and get approval by Board of Directors at the initiative of the company.

31.Effective Date

This policy shall enter into force on this date of 2020

Addis Ababa May 2....., 2020

Sadat Nasha

Chairperson of BOD

Annex 1. Annual Capital Goods Procurement Plan**Annex 2. Responsibilities of the chair person and secretary of procurement endorsing committee****RESPONSIBILITIES OF THE CHAIR PERSON COMMITTEE**

The chairperson of the Procurement Committee shall have the following responsibilities:

- a. Preside over every meeting of the Procurement Committee;
- b. Be present on the closing date and time of the bid and seal the bid box;
- c. On the bid opening day, ensures that the procedures and regulations of the bid before the opening have been duly observed;
- d. Exhibit that the bid box been properly sealed and shall cause to be opened in the presence of the members and the bidders;
- e. Ensure that the minutes of the bid opening and the process of the meeting, the decision of the evaluation are properly recorded in the minutes and shall also ensure that complete record of the minutes are presented;
- f. Submit proposals of the Procurement Committee to the Executive Managing Director or his authorized representative for final approval.

RESPONSIBILITIES OF THE SECRETARY OF THE PROCUREMENT COMMITTEE

- a. Record in the minutes the proceedings of every Procurement Committee meeting and maintain proper and complete records;
- b. Record minutes of discussions with suppliers held during the procurement process;
- c. Notify the members when and where the Procurement Committee meets;
- d. Ensure that reliable bid box is available for each bid ensure that the bid box is properly locked and keep the key to the bid box in a safe place.
- e. After receiving such documents or samples that cannot be deposited in the bid box, record their receipt, keep them in secret and present them to be Procurement Committee at the appropriate time;
- f. Close and seal the bid box together with the chairman at the bid closing time;
- g. Prepare agenda in accordance with the instructions given by the chairman of the Procurement committee,

- h. Return to the bidder without opening any such bids that are received after the bid deadline;
- i. Cast votes in meetings of the Procurement committee.

Annex 3: Floating Period of Bids

Annex 4: Bid security form to be filled by bidders pursuant

Bid number : _____

To : _____

(Insert the name of the procuring Public Body)

(Insert the full name of the bidder) hereinafter referred to as the “bidder” have submitted a bid with identification number **(Insert identification number and descriptions of Capital Goods Goods and related service)** to supply the required capital goods under procurement number **(Insert a short reference to the required objects of the procurement and the procurement identification number)** hereinafter referred to as the bid. Accordingly, I , the undersigned, - , **(Insert the name of the bidder, individual or organization as the case may be, and the name of the person authorized by the organization to sign the bid security if the bidder is an entity)** declare that I have read, understood and agree to be bound by the following terms, **(Insert in letter and figure the amount of the bid security and the currency in which such amount is expressed).**

The stamp of the bidder shall be affixed to the document **(Insert the validity period of the bid security days, weeks, months or years)** and sealed.

- a) Not to withdraw from the bid proceeding after the expiration of the period of bid submission set forth in the bidding document or within the validity period of my bid stated in my bid document, or
- b) To sign a contract before the expiration of the validity period of my bid, in compliance with a written notification of award which may be sent to me by the company if I am the successful bidder, or
- c) To provide performance security when I am advised by a notification of award to sign a contract and furnish performance security,
- d) To comply with other requirements stated in the bidding document.

- e) To pay the stated amount of the bid security within five days from the date of receipt of a written request from the Public Body, should I fail to fulfill any of the obligations stipulated in a-d above,

This bid security shall remain valid for _____ days after the end of the validity period of the bid. Any claim made in connection with this security thereafter shall not be acceptable.

Name **Insert the full name of the person signing the bid security form**

Signature **(Insert the signature, name and title of the person signing this document)**, or If the person signing this document is an agent, **(Insert the full name of such person)**

Date **(Insert date of signature)**