

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2014 No. 11.

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS
(PROCUREMENT OF MEDICINES AND MEDICAL SUPPLIES)
REGULATIONS, 2014.**

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S T A T U T O R Y I N S T R U M E N T S

2014 No. 11.

The Public Procurement and Disposal of Public Assets (Procurement of Medicines and Medical Supplies) Regulations, 2014.

*(Made under sections 40A (7) and 96 (1) of the Public Procurement and
Disposal of Public Assets Act, 2003).*

IN EXERCISE of the powers conferred upon the Minister responsible for finance by sections 40A (7) and 96 (1) of the Public Procurement and Disposal of Public Assets Act, 2003, in consultation with the Minister responsible for health, on the recommendation of the Authority and with the approval of Parliament, these Regulations are made, this 6th day of February, 2014.

1. Title.

(1) These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Procurement of Medicines and Medical Supplies) Regulations, 2014.

(2) These Regulations shall come into force on the 3rd day of March, 2014.

2. Application.

The procurement of medicines and medical supplies shall be in accordance with regulations made under the Act, except as provided for in these Regulations.

3. Interpretation.

In these Regulations, unless the context otherwise requires—

“competent authority” means a Government office which is mandated to perform a specified function;

“medical supplies” means the supplies in the Schedule to these Regulations;

“medicines” means any substance or preparation used or intended to be used for internal or external application to the human body either in the treatment or prevention of disease or for improving physiological functions;

“procuring and disposing entity” means a statutory body, a department of Government or of a local government and any other body or unit established and mandated by Government to procure medicine.

Methods of procurement

4. Open domestic bidding.

(1) Open domestic bidding shall be the preferred method of procuring medicines and medical supplies.

(2) Procurement using open domestic bidding shall be by public advertisement of a bid notice published in at least one newspapers of wide national circulation.

5. Open international bidding.

(1) A procuring and disposing entity shall procure medicines or medical supplies using the open international bidding instead of open domestic bidding, where competition shall not be effected without foreign bidders or where foreign bidders will increase the value for money.

(2) Open international bidding shall be used in accordance with the Fourth Schedule to the Act and the Public Procurement and Disposal of Public Assets (Rules and Methods of Procurement) Regulations, 2014.

6. Restricted bidding.

(1) Where there is a limited number of providers, a procuring and disposing entity may procure medicines or medical supplies using the restricted bidding where—

- (a) in the case of a procurement by the National Medical Stores, the value of the procurement is less than two billion shillings; and

(b) in the case of a procurement by a procuring and disposing entity other than the National Medical Stores, the value of the procurement is less than five hundred million shillings.

(2) The short list shall have at least five providers, except where the required medicine is only available from less than five providers.

(3) Where a shortlist has less than five providers, the Procurement and Disposal Unit shall provide justification for this to the Contracts Committee.

(4) The minimum bidding period for the restricted bidding shall be fifteen days.

7. Request for quotations.

(1) A procuring and disposing entity may procure medicines or medical supplies using the request for quotations method where the value of the procurement—

(a) in the case of a procurement by the National Medical Stores, is less than one billion shillings; and

(b) in the case of a procurement by a procuring and disposing entity other than the National Medical Stores, is less than one hundred million shillings.

(2) The request for quotations shall be used where—

(a) the time available is not sufficient for restricted bidding; or

(b) where restricted bidding does not receive responsive bids.

(3) The short list shall have at least three providers, except where the required medicines or medical supplies are only available from less than three providers.

8. Micro procurement.

(1) A procuring and disposing entity shall procure medicines or medical supplies using the micro procurement method where the value of the procurement—

- (a) in the case of a procurement by the National Medical Stores, is below one hundred million shillings; and
- (b) in the case of a procurement by a procuring and disposing entity other than the National Medical Stores, is below five million shillings.

(2) Micro procurements shall be executed by a member of the procuring and disposing entity appointed, for this purpose, by the accounting officer of the procuring and disposing entity.

(3) The short list shall have three providers, except where the required medicines or medical supplies are only available from less than three providers.

9. Direct procurement

(1) A procuring and disposing entity shall use the direct procurement method where a provider is a single provider or a sole source provider.

(2) A procuring and disposing entity shall use a single provider where there is a limited number of providers who are able to provide the required medicines or medical supplies, such as in an emergency situation.

(3) A procuring and disposing entity shall use a sole source provider where only one provider is able to provide the medicines or medical supplies, or where there is need for continuity in the delivery of the medicines or medical supplies.

10. Short list of providers.

(1) A procuring and disposing entity shall develop a short list of providers for medicines using—

- (a) the list of pre-qualified providers of the procuring and disposing entity;
- (b) the register of the World Health Organisation or any other international agency of which Uganda is a member;
- (c) the prequalified list of another procuring and disposing entity;

- (d) the registers of the National Drug Authority; or
- (e) the procuring and disposing entity's knowledge of the market.

(2) A procuring and disposing entity shall develop a short list of providers for medical supplies using—

- (a) the list of pre-qualified providers of the procuring and disposing entity;
- (b) the prequalified list of another procuring and disposing entity; or
- (c) the procuring and disposing entity's knowledge of the market.

Bidding

11. Bid security

The value of a bid security, where requested for by a procuring and disposing entity, shall be a fixed value or a percentage of the total bid price, but shall in all cases not exceed 2% of the total estimated value of the bid.

12. Use of brand names

(1) Specifications shall not be issued with reference to a particular trademark, brand name, patent, design, type, specific origin, producer, manufacturer, catalogue or numbered item.

(2) Where there is no other sufficiently precise or intelligible way of characterising a requirement except by the use of a reference in sub regulation (1), the description shall be used, followed by the words “or equivalent”, and shall only serve as a benchmark during the evaluation process.

(3) Notwithstanding sub regulation (1), where a standardisation policy is adopted by a competent authority or the World Health Organisation, the corresponding trademark, brand name, patent, design, type, specific origin, manufacturer, producer, catalogue or numbered item may be used in the statement of requirements.

13. Notice of best evaluated bidder.

(1) A procuring and disposing entity shall, within two days after the decision of the contracts committee to award a contract—

- (a) send a copy of the notice of best evaluated bidder to all the bidders who participated in the bidding process;
- (b) display the notice of best evaluated bidder on the notice board of the procuring and disposing entity and the website, where available; and
- (c) display the notice of best evaluated bidder on the website of the Authority.

(2) A notice of the best evaluated bidder shall be published for a minimum of-

- (a) five working days, before the award of contract, in the case of open or restricted procurement method; and
- (b) three working days, before the award of contract, in the case of request for quotations procurement method.

(3) The procuring and disposing entity shall obtain proof of delivery of the notice of best evaluated bidder to all bidders.

(4) The notice of best evaluated bidder shall not be issued—

- (a) where the direct procurement method is used;
- (b) where a competitive procurement method is used and only one bid is received by the procuring and disposing entity;
- (c) where the micro procurement method is used; and
- (d) for a procurement in an emergency situation.

Schedule

MEDICAL SUPPLIES

1. Sundries and medical consumables

Adhesive plaster
Airway guedel
Apron
Autoclave marketing tape
Bandages
Bins and bin liners
Blades scalpel
Blood lancets
Blood transfusion sets, bags and accessories
Bone wax
Boots
Brain swabs
Catheters and tubes
Cotton wool
Gauze
Gloves
Intravenous cannula
Intravenous infusion sets and burettes
Linen material
Lumber puncture, needles and epidural sets
Medical gas
Nasal oxygen cannula
Needles
Plaster of Paris
Protective hospital supplies
Safety boxes
Safe delivery kits
Sutures
Syringes, with or without needles
Theatre supplies
Thorax drainage bottle and accessories
Umbilical tape
Urine and colostomy bags

2. Disinfectants and anti-effectives agents
3. Medical equipment
4. Dental supplies
5. Orthopedic and dental supplies
6. Laboratory supplies and consumables
7. Test kits
8. Hospital stationary
9. Radiopharmaceuticals
10. Medical envelopes
11. Insecticide and non-insecticide treated mosquito nets
12. Medical staff uniforms and protective wares

MARIA KIWANUKA,
Minister of Finance, Planning and Economic Development.