

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF REGULATIONS

REGULATIONS

PRELIMINARY

1. Short title.
2. Interpretation.

**PART I
ADMINISTRATION**

3. Annual report of the Board.
4. Procurement staff.
5. Annual Procurement Plan.

**PART II
GENERAL PROCUREMENT PROVISIONS**

6. Division into lots.
7. Evidence of bidder qualifications.
8. Joint ventures.
9. Register of bidders.
10. Publication of procurement opportunities.
11. Invitation to bid.
12. Bidding documents.
13. Bid securities.
14. Performance securities.
15. Bid submission.
16. Bid opening for two envelopes.
17. Domestic preference.
18. Sustainable procurement.
19. Evaluation of bids.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- 20. Substantial responsiveness.
- 21. Request for clarification of bid.
- 22. Publication.
- 23. Bidder debriefing.

**PART III
PROCUREMENT METHODS**

- 24. Procedure for two-stage bidding.
- 25. Procedure for limited competitive bidding.
- 26. Requests for quotation.
- 27. Procedure for single source procurement.
- 28. Framework agreements.

**PART IV
PROCUREMENT METHOD:
REQUEST FOR PROPOSALS**

- 29. Terms of reference.
- 30. Shortlisting.
- 31. The request for proposal.
- 32. Selection method.
- 33. Selection based on quality and cost.
- 34. Selection based on quality alone.
- 35. Selection based on quality within a fixed budget.
- 36. Selection based on least cost.
- 37. Selection of individual consultants.

**PART V
DISPOSAL OF PUBLIC PROPERTY**

- 38. Arranging for disposal.
- 39. Methods of disposal.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

PART VI
CHALLENGE AND REVIEW

- 40. Registration of applications.
- 41. Opening of review procedure.
- 42. Hearings.
- 43. Evidence.
- 44. Conclusion of proceedings.
- 45. Functions of Secretariat.
- 46. Register of Applications.
- 47. Lodging the application.
- 48. Receipt of Reply.
- 49. Assisting the Review Council.
- 50. Manner and form of procedure.
- 51. Publicity of decisions.

PART VII
CONTRACT ADMINISTRATION

- 52. Appointment of contract administrator.
- 53. Duties of contract administrator.
- 54. Inspection and verification.

PART VIII
MISCELLANEOUS

- 55. Recording and reporting.

FIRST SCHEDULE
SECOND SCHEDULE

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS NO. OF 2022.

REGULATIONS

MADE by the Minister under section 86 of the Public Procurement
and Disposal of Public Property Act, 2021.

(Gazetted , 2022.)

PRELIMINARY

1. These Regulations may be cited as the – Short title .

**PUBLIC PROCUREMENT AND
DISPOSAL OF PUBLIC PROPERTY
REGULATIONS, 2022.**

2. In these Regulations – Interpretation.

“Act” means the Public Procurement and Disposal of Public
Property Act, 2021; No. 14 of 2021.

“assets” mean stores, equipment and other public property being
disposed;

“micro, small and medium-sized bidders” means micro, small and
medium-sized enterprises who participate in procurement
proceedings;

“micro, small and medium-sized enterprise” means a natural or
legal person or a consortium or joint venture of several

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

legal persons whose annual turnover from business activity amounts to two million five hundred thousand dollars or less;

“Register of Bidders” means the register established under section 30 of the Act;

“services” in relation to the procurement of goods, works or services –

(a) means services of a physical or technical nature resulting in the production of measurable outputs; and

(b) includes:

(i) printing, drilling, data surveys, aerial photography, mapping, satellite imagery or the provision of insurance coverage;

(ii) labour, time or effort not involving the provision of a tangible end-product other than a report or goods or tangible property produced or supplied incidental to labour, time or effort;

(iii) reports, goods, products or other tangible property produced or supplied incidental to the rendering of the services if the value of those goods does not exceed the value of the services;

“set aside” means the reservation of a percentage of a procuring entity’s procurement for target groups established for the purposes of sections 3(1) and 25(3) of the Act.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

**PART I
ADMINISTRATION**

3. (1) The Board shall take the following action to ensure that information is available for preparation of its annual report in accordance with section 10(2)(f) of the Act –

Annual Report of the Board.

- (a) coordinate with and receive reports from the Chief Procurement Compliance Officer and other relevant oversight agencies indicating persistent violations or weaknesses in the system which need to be addressed;
- (b) develop and apply procedures and forms for the purpose of collecting relevant statistical information from procuring entities and other stakeholders;
- (c) ensure that the information required under paragraph (a) or (b) is provided on a quarterly basis and that the information for the final quarter is provided within one month of the end of the financial year;
- (d) establish analytical processes to analyse the statistical information collected

(2) The annual report shall include an assessment of the activities of the Board for the financial year, including –

- (a) a summary of its annual statement of accounts for the preceding financial year together with a management plan for the next financial year;
- (b) a report of the operations of the Board and the annual management plan;

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- (c)* a report on its activities under section 10(2)(b) to (e) of the Act.

(3) The annual report shall provide a performance evaluation report of the procurement system of Dominica, including—

- (a)* an evaluation of the operations of procuring entities;
- (b)* a report on the audit findings, complaints investigated and corrective actions taken by the relevant supervision agencies and a record the responses, actions and remedial actions taken by procuring entities;
- (c)* an assessment of the implementation and functioning of the procurement legal framework, including the continued relevance of the guidance and facilities provided by the Financial Secretary under section 7(1)(h) to (k) of the Act;
- (d)* an assessment the success of measures taken to support the promotion of economically, environmentally and socially sustainable procurement and the promotion of the long-term industrial development of Dominica; and
- (e)* recommendations to address any weaknesses identified including:
 - (i)* remedial actions to be taken, and
 - (ii)* consequential improvements to the legal framework, regulations, directives, procedures

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

and guidance for the implementation of this Act.

4. The Secretariat of the Board appointed under section 11 of the Act shall - Secretariat of the Board.

- (a) give notice of meetings of the Board;
- (b) take accurate minutes of meetings of the Board, ensure the authentication of documents with the seal and provide copies to members of the Board and to the Chief Procurement Compliance Officer;
- (c) keep records of the business of the Board;
- (d) prepare and disseminate correspondence of the Board, including recommendations in respect of the award of contracts and the disposal of public property;
- (e) carry out such other tasks in relation to the functions of the Board as are assigned to the Secretariat by the Board.

5. (1) A procuring entity shall prepare an annual procurement plan in the form set out in the First Schedule and ensure that, in addition to the items referred to in section 24 of the Act, the annual procurement plan contains at least – Annual Procurement Plan.
First Schedule.

- (a) a detailed breakdown of the goods, works and services required;
- (b) a schedule of the delivery, implementation or completion dates for all goods, works and services required;
- (c) an indication of which items can be aggregated for procurement as a single package;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (d)* an estimate of the value of each package of goods, works and services required;
- (f)* an indication of the anticipated procurement method for each procurement requirement, including any need for pre-qualification, and the anticipated time for the complete procurement cycle, taking into account the applicable approval requirements;
- (g)* an indication of the resources available for managing the procurement workload; and
- (h)* details of any committed or planned procurement expenditure under existing multiyear contracts.

(2) For the purpose of forewarning potential bidders of the contracts likely to be awarded over the forthcoming financial year, a procuring entity shall, in accordance with section 24(4) of the Act cause the publication of a summary of the annual procurement plan on the public procurement website in the form set out in the Second Schedule.

Second Schedule.

(3) The summary referred to in subregulation (2) shall consolidate the annual requirements of the procuring entity either –

- (a)* by product area or category using appropriate customs or other codes used in the definition of product categories; or
- (b)* by identifying products with similar characteristics or a range of related products and services likely to be provided by individual bidders.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

PART II
GENERAL PROCUREMENT PROVISIONS

6. (1) Where a procuring entity decides to divide a procurement requirement under section 25(3) of the Act, the procuring entity shall – Division into lots.

- (a) determine the size and subject matter of the lots;
- (b) ensure that the size of the package is designed to foster maximum competition and obtain the most advantageous bids;
- (c) state in the instructions to bidders -
 - (i) the number of lots or packages; and
 - (ii) the nature, location and size of each lot; and
- (d) permit bidders to bid for a single lot, any combination of lots or all lots.

(2) Where a proposed procurement may result in contracts being awarded in the form of separate lots, the value of the procurement shall be the total estimated value of all such lots.

(3) Where the aggregate value of the lots is equal to or exceeds the threshold specified in regulation 10(2), the procuring entity shall use the same procurement method for each lot.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(5) Where a policy concerning or requiring division of procurements into lots is issued by the Minister, a procuring entity may be required to implement the policy in accordance with regulation 18.

Evidence of bidder qualifications.

7. (1) A procuring entity may require bidders to furnish evidence of their financial capacity to fulfil the requirements of the contract.

(2) Where a procuring entity requires bidders to furnish evidence of financial capacity the procuring entity shall ensure that the level of financial capacity required from the bidders is set out in the bidding documents.

(3) A bidder may furnish the evidence required under subregulation (1) by submitting –

- (a) certified statements from bankers or equivalent financial institutions including, if necessary, details of available line of credits;
- (b) the bidder's balance sheet or extracts from the balance sheets for the period of time stated in the bidding documents; and
- (c) documentation of the overall turnover and the specific turnover in respect with works, supply of goods or services similar to those required in the contract for the time period specified in the bidding documents.

(4) Where the nature, quantity and purposes of the goods, services or works requires evidence of technical qualifications and competence of bidders a bidder may furnish this evidence by providing –

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (a)* the professional and educational qualifications of the bidder and its managerial and supervisory staff and, in particular, of persons responsible for carrying out the particular works or services for the proposed contract;
 - (b)* in the case of works, a list of works carried out over the period of time stated in the bidding documents together with certificates of satisfactory execution for similar works, issued by previous clients, and the certificates shall indicate the value, date and site of the works and shall specify whether they were satisfactorily completed;
 - (c)* in the case of goods and services, a list of supplied goods and services for the period of time stated in the bidding documents with the sums, dates and purchasers (public and private accompanied by certificates issued or signed by the purchaser;
 - (d)* a list of the bidder's machinery, namely tools, plants and technical equipment, including quality control system directly carried out or by sub-contracting. and
 - (e)* in the case of goods, detailed descriptions and types of goods to be supplied, which, if the procuring entity so requires, authenticity must be certified.
- (5) A procuring entity shall indicate the references it requires in the bidding documents.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

Joint ventures.

8. Where a bidder is constituted in the form of a joint venture –

- (a) all parties to the joint venture are jointly and severally liable for the contract; and
- (b) the joint venture shall nominate a representative who will have the authority to conduct all businesses for and on behalf of any and all parties of joint venture during the bidding process and, in the event the joint venture is awarded the contract, during the contract execution.

Register of bidders.

9. (1) The registration of a bidder under section 30 of the Act constitutes a presumption of the bidder's general compliance with the criteria adopted for the registration process and qualifies registered bidders to participate in a subsequent procurement procedure without further investigation.

(2) A bidder who is not registered does not benefit from the presumption under subregulation (1) and will be required to demonstrate their qualifications to participate in the procurement procedure, and the bidder may only be excluded from the procurement procedure on the basis of the criteria specified in section 28 of the Act.

(3) Notwithstanding the general compliance of registered bidders, procuring entities shall establish contract specific criteria in accordance with section 28 of the Act for each procurement requirement and shall assess the qualifications of all bidders for the specific contract in question and the criteria shall be set out in the prequalification document or bidding document, as appropriate.

Publication of
procurement
opportunities.

10. (1) In addition to the media of publication identified in section 31(1) of the Act, invitations to bid or to prequalify under open competitive bidding, requests for proposals or the commencement of an electronic reverse auction shall be published in any media required by an international or regional agreement

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

entered into by Dominica in respect of public procurement.

(2) Whenever the value of a proposed procurement exceeds twenty million dollars in the case of works, ten million dollars the case of goods or services or five million dollars in the case of consulting services, procuring entities shall also publish the invitations identified in subregulation (1) in at least one English language newspaper, specialised journal or other printed media with adequate circulation to attract foreign competition or on widely read internet websites.

(3) In all other cases, procurement may be limited to domestic bidders and advertised in accordance with section 31(1) of the Act.

11. (1) A procuring entity shall ensure that an invitation to bid Invitation to bid. contains:

- (a) the name and address of the procuring entity;
- (b) the nature, quantity and place of delivery of the goods to be supplied or the nature, quantity and location of the works to be effected or the nature of the services and the location where they are to be provided;
- (c) the desired or required time for the supply of the goods or for the completion of the works or for the provision of the services;
- (d) the means or conditions of obtaining the bidding documents and the place from which they may be obtained;
- (e) the fee, if any, to be charged by the procuring entity for the bidding document, such price being limited to the costs of reproduction and distribution;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (f)* the address for the submission of bids;
- (g)* the deadline for the submission of bids;
- (h)* the place, hour and date for opening of bids; and
- (i)* if relevant, the source of financing.

(2) The procuring entity shall, immediately after the first publication of the invitation to bid issue the bidding documents to all prospective bidders who have responded to the invitation bid in accordance with the procedures and requirements specified in the invitation to bid.

(3) Where prequalification procedures have been used, the procuring entity shall issue a set of the bidding documents to all bidders who have prequalified and have paid the fee, if any, for the documents.

Bidding documents.

12. (1) A procuring entity shall ensure that, in addition to the details enumerated in section 32(1) of the Act, the bidding documents contain:

- (a)* the name and address of the procuring entity;
- (b)* the name, functional title and address of an officer or employee of a procuring entity who is authorised to communicate directly with and to receive communications directly from bidders in connection with the procurement;
- (c)* the criteria and procedures relating to the qualifications of bidders;

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- (d)* the requirements as to documentary evidence or other information that has to be submitted by a prospective bidder to demonstrate his qualifications;
- (e)* where set asides are used, the eligibility requirements for participation;
- (f)* in the case that alternatives to the characteristics of the goods, works, services, contractual terms and conditions or other requirements set out in the bidding documents are permitted, a statement to that effect, and a description of the manner in which alternative bids are to be evaluated and compared;
- (g)* in the case of a division into lots, any conditions applying to the award of lots;
- (h)* the currency or currencies in which the bid price is to be formulated and expressed;
- (i)* any requirements of the procuring entity with respect to the issuer and the nature, form, amount and other principal terms and conditions of any bid security to be provided by bidders, and any such requirements for any security for the performance of the procurement contract to be provided by the bidders who enters into the procurement contract;
- (j)* the period of time during which bids shall be valid;
- (k)* the place, date and time for the opening of bids;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (l)* the procedures to be followed for opening and examining bids;
- (m)* the currency that will be used for the purpose of evaluating and comparing bids and in the case of foreign currency an exchange rate that will be used for the conversion of bids into that currency or a statement that the rate published by a specified financial institution prevailing on a specified date will be used;
- (n)* notice of the right for review of an unlawful act, decision of, or procedure followed by, the procuring entity in relation to the procurement procedures;
- (o)* the applicable standstill period;
- (p)* any formalities required where a bid is accepted for a procurement contract to enter into force, where applicable, the execution of a written contract, approval requirements and the estimated period of time following the dispatch of the notice of acceptance that requires approval; and
- (q)* any other requirements established by a procuring entity in conformity with the Act and the regulations relating to the preparation and submission of bids and to other aspects of the procurement procedures.

(2) A procuring entity shall ensure that the bidding documents are formulated to permit and encourage competition and such documents shall set out clearly and precisely all information necessary for a prospective bidder to prepare a bid.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(3) A procuring entity shall use the appropriate standard bidding documents issued by the Minister.

(4) Any changes to the standard bid documents shall be introduced only through bid data sheets, or through special conditions of contract.

13. (1) In order to deter irresponsible bidders and encourage bidders to fulfil the conditions of their bids, a procuring entity may require bidders for works, goods and non-consulting services to provide either – Bid Securities.

(a) a bid security, or

(b) a bid-securing declaration.

(2) The bidding documents shall state any requirement for a bid security or a bid-securing declaration.

(3) The value of any required bid security shall be expressed as a fixed amount, which may be up to five percent of the estimated value of the contract.

(4) In determining the amount of bid security required, the procuring entity shall take into account the cost to bidders of obtaining a bid security, the estimated value of the contract and the risk of bidders failing to fulfil the conditions of their bids, and which shall be high enough to deter irresponsible bids, but not so high as to discourage competition.

(5) Where the bidding documents stipulate that a bid security is required, the bid security shall be:

(a) substantively in accordance with the format and wording provided in the bidding document;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(b) in a form acceptable to the procuring entity, which may be:

(i) a certified Bank cheque;

(ii) a bank guarantee

(iii) a bond issued by an insurance company or other financial institution; or

(iv) any alternative form acceptable to the procuring entity, including any forms permitted under schemes issued by the Minister to facilitate access to securities by micro and small enterprises; and

(c) valid for the period prescribed in the bidding document, which shall normally be 28 days beyond the expiry of the bid validity period.

(6) A bidder forfeits a bid security only in the event of:

(a) a modification or withdrawal of a bid after the deadline for submission of bids and during its period of validity;

(b) refusal by a bidder to accept a correction of an arithmetical error appearing on the face of the bid;

(c) failure by the successful bidder to sign a contract in accordance with the terms set forth in the bidding documents; or

(d) failure by the successful bidder to provide a security for the performance of the contract if required to do so by the bidding documents.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(7) A procuring entity shall release bid securities promptly to unsuccessful bidders upon expiry of the term of the security or formation of a contract with the successful bidder and submission by the successful bidder of any required performance security, whichever is earlier.

(8) The bid security of the successful bidder shall not be released, until any required performance security has been received.

(9) In the event of a bid-securing declaration, if the successful bidder withdraws or modifies its bid during the period of validity or fails to sign the contract or to submit the performance security within the prescribed deadline, the bidder shall pay to the project owner or procuring entity within seven days a penalty of two per cent of the bid price, failing which the procuring entity shall commence debarment proceedings in accordance with the Fifth Schedule of the Act and the bidder shall be debarred by the Board from participating in any public contract for a period of up to three years.

14. (1) A procuring entity may request a performance security, where applicable, to secure the contractor's or supplier's obligation to fulfil the contract.

Performance securities.

(2) A procuring entity shall ensure that a requirement for a performance security is set out in the bidding documents and contract, and the security is provided prior to commencement of the contract.

(3) The value of any required performance security may be expressed either as a fixed amount or as a percentage of the contract value and shall be no more than ten percent of the contract value.

(4) In determining the amount of performance security required, the procuring entity shall take into account the cost to the

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

contractor or supplier of obtaining a performance security, the value of the contract, the risk of a contractor or supplier failing to fulfil his contractual obligations or to perform the contract satisfactorily and the extent of protection offered to the procuring entity through alternative means, such as payment retentions.

(5) Where appropriate, the value of the performance security may be progressively reduced, in line with the contractor's or supplier's progress in delivering or completing the goods, works or services to which the security relates.

(6) The bidding documents and contract shall state that the performance security shall be:

- (a) substantively in accordance with the format and wording provided in the bidding document;
- (b) in a form acceptable to the procuring entity;
- (c) from an institution acceptable to the procuring entity, where the security is issued by a financial institution; and
- (d) valid for the period specified in the contract.

(7) The conditions for forfeiture of the performance security shall be specified in the contract.

(8) The procuring entity shall release the performance security promptly to the contractor on completion of all the contractor's contractual obligations which are subject to the security or termination of the contract for a reason that is not attributable to any fault of the contractor.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

15. (1) A bid shall be submitted in written form, duly signed and in the number of sealed envelopes at the place and time indicated in the bidding documents. Bid submission.

(2) A bidder is permitted only one bid and a bidder shall not participate in more than one bid unless otherwise indicated in the bidding documents.

(3) Bidding documents shall permit the submission of bids by hand or mail or by courier at the option of the bidder.

(4) Except for bids received through a bid box, a procuring entity shall, on request, issue to a bidder a receipt setting out the date and time the bid was received.

(5) Notwithstanding subregulation (3) and subject to any e-procurement policy issued by the Minister, the bidding documents may authorise other methods of submission of bids, as long as the confidentiality and security of bids are assured, including the prevention of the opening and reading of bids by anyone until the time set for the opening of bids.

(6) Where a bid security is required, a bidder shall, before the deadline for submitting bids, deliver to the procuring entity such security in the prescribed amount, form and manner.

(7) Bids shall remain valid for the period of time indicated in the bidding documents and withdrawal of a bid during the bid validity period will result in forfeiture of any bid security provided or in action under regulation 18.

(8) The period fixed by a procuring entity in subregulation (7) shall be sufficient to permit evaluation and comparison of bids, for obtaining all necessary confirmations of compliance and approvals, and for the notification of the award of contracts and finalise a contract but the period shall not exceed one hundred and twenty days from the final date fixed for submission of bids.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(9) A procuring entity may extend the period of the validity of a bid -

- (a) if the bidder concerned has given prior written consent; and
- (b) in the case where security was required, the bidder obtains from the provider of the security, a corresponding extension to the bid security.

(10) Where a bidder does not consent to an extension of the period of the validity of a bid, the validity of the bid shall be terminated on the expiry of the un-extended period of validity and, if security was required, the procuring entity shall return the security.

(11) All bids submitted before the deadline for submission shall be opened in public in accordance with section 38(2) of the Act.

Bid opening for two envelopes.

16. (1) When inviting bids in two envelopes under section 33(1) of the Act, the procuring entity shall, before opening the envelopes containing the financial aspects of the bids, examine and evaluate the technical, quality and performance characteristics of bids contained in the technical envelope in accordance with the criteria and procedures specified in the request for proposals.

(2) The results of the examination and evaluation of the technical, quality and performance characteristics of the bids shall immediately be included in the record of the procurement procedures.

(3) Proposals whose technical, quality and performance characteristics fail to meet the relevant minimum requirements specified in the bidding documents shall be considered to be

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

substantially non-responsive and shall be rejected on that ground.

(4) A notice of rejection and the reasons for the rejection, together with the unopened envelope containing the financial aspects of the proposal, shall promptly be dispatched to each respective bidder whose bid was rejected.

(5) The proposals whose technical, quality and performance characteristics meet or exceed the relevant minimum requirements shall be considered to be responsive and the procuring entity shall promptly communicate to each bidder presenting the proposal the score of the technical, quality and performance characteristics of its respective bid and shall invite all such bidders to the opening of the envelopes containing the financial aspects of their proposals.

(6) Where scored, the score of the technical, quality and performance characteristics of each responsive bid and the corresponding financial aspect of that bid shall be read out in the presence of the bidders invited to the opening of the envelopes containing the financial aspects of the proposals.

(7) The procuring entity shall compare the financial aspects of the responsive bids and, on that basis, identify the successful bid in accordance with the criteria and the procedure set out in the invitation to bid.

(8) The successful bid shall be the one that is the most advantageous in terms of the price and the criteria specified in the invitation to bid.

17. (1) Where so indicated in the bidding documents and strictly in accordance with any rules or schemes for domestic preference approved by the Minister, a procuring entity may apply a margin of preference to eligible bids whenever a procuring entity uses the open competitive bidding internationally.

Domestic preference.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(2) Any rules or schemes referred to in subregulation (1) shall clearly state the –

- (a) eligibility for the margin of preference, in terms of ownership, country of registration of the bidder or location of production facilities, origin of labour, raw material or components, extent of sub-contracting or association with local partners or any other relevant factor;
- (b) documentation required as evidence of eligibility for the margin of preference; and
- (c) percentage of the margin of preference and the manner in which it will be applied during the evaluation.

(3) A procuring entity may only apply the preference where it is satisfied that the bidders benefiting from the preference have the capacity and experience necessary to provide the required goods, works or services, and are able to submit responsive bids which, in particular, meet the terms and conditions, qualification criteria and technical specifications set out in the bidding documents.

(4) In the case of goods contracts, a procuring entity may apply a preference to bids that contain:

- (a) goods manufactured exclusively in Dominica, or
- (b) goods partially manufactured or assembled in Dominica where the bidder establishes to the satisfaction of the procuring entity that the proportion of domestic value added to the total value of those goods is equal to or greater than thirty per cent of the ex-works (EXW) price of the goods offered.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(5) In establishing the domestic value added for the purposes of subregulation (4)(b), the procuring entity shall take account of the value of domestic labour, raw materials or components manufactured within Dominica as well as the value of any manufacturing and assembly carried out in facilities within Dominica.

(6) As part of their bids, bidders shall certify that the necessary manufacturing capacity exists where domestic value is to be added.

(7) In the case of works contracts, the procuring entity may apply preference to bids that employ fifty per cent or more in number of domestic labour.

(8) For comparison purposes, responsive bids shall be classified in one of the three groups:

- (a) Group A: bids offering goods manufactured locally if the bidder satisfactorily establishes that,
 - (i) local labour, raw material and components will account for more than thirty percent of EXW price to the product offered, and
 - (ii) the production facility in which those goods will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the time of bid submission;
- (b) Group B: all other bids offering local goods;
- (c) Group C: bids offering the goods from abroad and to be directly imported.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(9) The price quoted for goods in bids of Groups A and B shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported, but shall exclude the sales and similar taxes on the finished product, and the price quoted for goods in bids of Group C shall be on cost insurance and freight (place of destination), which is exclusive of customs duties and other import taxes already paid or to be paid.

(10) In the first step, all evaluated bids in each group shall be compared to determine the lowest bid in each group, and the lowest evaluated bids shall be compared with each other and if, as a result of this comparison, a bid from Group A or Group B is the lowest, it shall be selected for the award.

(11) If as a result of the comparison under subregulation (10) the lowest evaluated bid is a bid from Group C, the lowest evaluated bid from Group C shall be further compared with the lowest evaluated bid from Group A after adding to the evaluated price of goods offered in the bid from Group C, for the purpose of this further comparison only, an amount equal to margin of preference applied to (e.g. fifteen percent of) the cost insurance and freight bid price; and the lowest evaluated bid determined from this last comparison shall be selected.

(12) In this regulation “domestic labour” includes –

- (a) skilled or unskilled labour and may include management input; and
- (b) labour provided by the bidder directly where that is a domestic contractor or indirectly by foreign contractors through sub-contracting of Dominican labour or through association with domestic contractors that employ Dominican labour.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

18. (1) A procuring entity may, where that intention is indicated in the bidding documents and in accordance with a policy made by the Minister, seek to promote domestic industry and social and economic development through procurement.

Sustainable procurement.

(2) A procuring entity may seek to promote domestic industry and social and economic development in accordance with subregulation (1) by -

- (a) applying a margin of preference to bids offering goods of domestic origin or using domestic labour or service in accordance with regulation 17; or
- (b) setting aside a percentage, of their total procurement for defined target groups; or
- (c) imposing a requirement to divide a procurement into separate lots for defined target groups in accordance with regulation 6;
- (d) developing environment-friendly technical specifications and designs for goods, works and services to be procured; and
- (e) adopting award criteria that take into consideration and weigh sustainability aspects, apart from price-related attributes.

(3) The target groups referred to in subregulation (2)(b) and (c) may include –

- (a) micro, small and medium sized enterprises; or
- (b) special groups such as enterprises led by women, youth, the elderly and persons with disability; and
- (c) any other group identified by the Minister.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(4) Notwithstanding the requirements of section 25 of the Act, the Minister may establish by way of policy that the target groups shall be eligible for the advantages provided in subregulation (2)(b) and (c) if they:

- (a) are listed and recognized by the procuring entity or any organisation established for this purpose as being part of a target group; and
- (b) satisfy any ownership or management requirements such as a minimum percentage membership or management staff from the persons identified in such target groups; and
- (c) have been provided by the procuring entity in question with the necessary training for the better carrying out the functions forming part of the contracts to be set aside or to be awarded in the form of lots.

(5) A procuring entity may issue a certificate or registration letter to an individual or group of individuals confirming that they have satisfied the conditions of subregulation (3) which establishes, without the need to satisfy the requirements of section 25 of the Act, that the said individual or group of individuals have the necessary qualifications, capability, experience and, where appropriate, resources, equipment and facilities to provide the goods or services intended to be procured.

(6) The conditions of subregulation (4) shall be proportionate to the needs of the contract to be performed.

(7) Pursuant to any policy direction issued by the Minister, procuring entities may be required to implement this regulation for the benefit of identified target groups under the conditions to be specified in the said policy.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

19. (1) Prior to the detailed evaluation of bids, the bid evaluation committee shall carry out a preliminary examination of the bids to determine whether or not –

Evaluation of bids.

- (a) each bid is substantially responsive to the requirements of the bidding documents;
- (b) any securities have been provided where required;
- (c) the documents have been properly signed; and
- (d) the bids are otherwise generally in order.

(2) Except where the award criteria established by section 39(2)(d) of the Act have been selected, the bid evaluation committee shall evaluate on a common basis opened bids in order to determine the cost or price to the procuring entity of each bid in a manner that permits a comparison to be made between the bids on the basis of the evaluated costs or prices.

20. (1) All bids shall be checked for substantial responsiveness to the terms and conditions of the bidding documents.

Substantial
responsiveness.

(2) For the purposes of this regulation, a bid is considered to be substantially responsive if it conforms to all the terms, conditions and specifications of the bid document without material deviation or reservations or omissions.

(3) Material deviations to commercial terms and conditions, which justify rejection of a bid include the following:

- (a) failure to sign the bid form and price schedules by the authorized person or persons;
- (b) failure to satisfy eligibility requirements;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (c)* failure to submit a bid security or bid-securing declaration as specified in the bidding documents;
- (d)* failure to satisfy the bid validity period;
- (e)* inability to meet the critical delivery schedule or work schedule clearly specified in the bidding documents, where such schedule is a crucial condition with which bidders must comply;
- (f)* failure to comply with minimum qualification criteria as specified in the bidding documents;
- (g)* conditional bids;
- (h)* inability to accept the price adjustment formulae of the bidding documents;
- (i)* stipulating price adjustment when fixed price bids were invited;
- (j)* subcontracting in a substantially different amount or manner than that permitted;
- (k)* failure to submit major supporting documents required by the bidding documents to determine substantial responsiveness of a bid.

(4) Material deviations to the technical requirements of the bidding documents and non-conformity to technical requirements, which are justifiable grounds for rejection of a bid include the following:

- (a)* failure to bid for the required scope of work as instructed in the bidding documents;

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- (b) failure to meet major technical requirements, such as offering completely different types of equipment or materials from the types specified, plant capacity well below the minimum specified, equipment not able to perform the basic functions for which it is intended;
- (c) presentation of unrealistic and inadequate implementation plans and schedules regarding performance, technical or service factors.

(5) A procuring entity shall base its determination of a bid's responsiveness on the contents of the bid itself without recourse to extrinsic evidence.

(6) Where a bid is not responsive to the bidding document, it shall be rejected by the procuring entity and may not subsequently be made responsive by correction or withdrawal of the deviation or reservation.

21. (1) A procuring entity may request a bidder to clarify his bid in order to assist in the examination, evaluation and comparison of bids, but no advantage shall be sought, offered or permitted to change any matter of substance in the bid, including changes in price and changes aimed at making an unresponsive bid responsive.

Request for clarification of bid.

(2) Notwithstanding subregulation (1)–

- (a) a procuring entity shall correct purely arithmetical errors that are discovered during the examination of bids and the procuring entity shall give prompt notice of any such correction to a bidder that submitted the bid;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (b) a procuring entity may regard a bid as responsive even if it contains minor deviations or omissions that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in the bidding documents or it contains errors or oversights that are capable of being corrected without touching on the substance of the bid;
- (c) any such deviations shall be quantified to the extent possible, and appropriately taken account of in the evaluation and comparison of bids.

Publication.

22. For the purposes of section 46(3) of the Act, the threshold established by regulation 26(1) applies regardless of the procurement method employed.

Bidder debriefing.

23. (1) A request for debriefing under section 47 of the Act shall be made promptly following issue of the notice under section 44(4) of the Act and in any event before the expiry of the standstill period.

(2) A procuring entity shall ensure that a debriefing is provided promptly in writing following the receipt of the request.

(3) If a procuring entity provides a debriefing within less than three working days before the end of the standstill period, the procuring entity shall extend the standstill period by not less than three working days and the procurement entity shall inform all bidders of the extension of the standstill period.

(4) A request for debriefing shall not be made during an extension of a standstill period.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(5) A procuring entity shall ensure that the bidder is informed in the debriefing of the stage of the evaluation at which the bid was rejected, provide brief details of any material deviation, reservation or omission leading to rejection of the bid or state that a bid was substantially responsive but failed to offer the lowest evaluated or most advantageous bid, as required.

(6) A procuring entity shall ensure, except in so far as they are identified, the debriefing does not provide details of any other bids, other than information that is publicly available from bid openings or published notices.

PART III
PROCUREMENT METHODS

24. (1) Except where these Regulations requires otherwise, the provisions of the Act and these Regulations relating to open competitive bidding apply to two-stage bidding.

Procedure for two- stage bidding.

(2) The procuring entity shall ensure that the bidding documents call on bidders to present, in the first stage of two-stage bidding procedures, initial bids containing their proposals without a bid price.

(3) The bidding documents may solicit bids relating to the technical, quality or performance characteristics of the subject matter of the procurement, contractual terms and conditions of supply and, where relevant, the professional and technical competence and qualifications of the bidders.

(4) A procuring entity may, during the first stage, engage in discussions with bidders whose initial bids have not been rejected pursuant to the provisions of the Act or these Regulations concerning any aspect of their first-stage bids.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(5) Without prejudice to subregulation (4), when a procuring entity engages in discussions with any bidder, it shall extend to other bidders an equal opportunity to participate in independent discussions with each bidder.

(6) In the second stage of two-stage bidding procedures, a procuring entity shall invite all bidders whose initial bids were not rejected in the first stage to present final bids with prices in response to a revised set of terms and conditions of the procurement.

(7) In revising the relevant terms and conditions of the procurement, the procuring entity shall not modify the subject matter of the procurement but may refine aspects of the description of the subject matter of the procurement by –

- (a) deleting or modifying any aspect of the technical, quality or performance characteristics of the subject matter of the procurement initially provided and adding any new characteristics that conform to the requirements of these Regulations; or
- (b) deleting or modifying any criterion for examining or evaluating bids initially provided and adding any new criterion that conforms to the requirements of these Regulations, only to the extent that the deletion, modification or addition is required as a result of changes made in the technical, quality or performance characteristics of the subject matter of the procurement.

(8) Any deletion, modification or addition made pursuant to subregulation (7) shall be communicated to bidders in the invitation to present final bids.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(9) The final bids shall be evaluated with a view to ascertaining the successful bid.

25. (1) Where the limited competitive bidding procurement method is used the procuring entity shall invite bids by writing directly, on the same day, to –

Procedure for limited competitive bidding.

- (a) all the bidders who can supply the subject matter of procurement in accordance with section 52(1)(a) of the Act; or
- (b) an adequate number of bidders who can supply the subject matter of procurement selected in a non-discriminatory manner to ensure effective competition, in case of section 52(1)(b) of the Act.

(2) For the purposes of subregulation (1)(b), the procuring entity may select bidders to be invited from the Register of Bidders.

26. (1) The request for quotations method may be used for all contracts for goods, works and services with an estimated value not exceeding five hundred thousand dollars.

Requests for quotation.

(2) Quotations shall be solicited from at least three suppliers.

(3) A letter of request for quotations and any attachments shall contain –

- (a) the full name and address of the procuring entity;
- (b) a full description of the goods, works or services to be procured, including the required technical or quality characteristics, specifications, designs,

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

plans and drawings, as appropriate;

- (c)* the quantities of any goods to be supplied and the required time and place of delivery, any requirements for such goods;
- (d)* in the case of works, bills of quantities, construction method, the location and the required time for their completion;
- (e)* in the case of services, a list of targets to be achieved by a service provider, list of specific tasks or duties to be performed, a schedule of deliverables or outputs against which the achievements of the services shall be measured, the duration of the services and method of measuring the performance of services delivered;
- (f)* the qualification requirements a bidder must meet to be awarded the contract;
- (g)* information of any elements other than the charges for the goods or services themselves, such as any applicable transportation and insurance charges customs duties and taxes, that are to be included in the price;
- (h)* the period during which the quotations are to remain valid;
- (i)* the form of contract or Purchase Order, to include all conditions and terms of payment;

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- (j)* all documents and information requirements that shall be submitted as part of the quotation;
- (k)* a statement that the procuring entity does not bind itself to accept any quotation and may reject all quotations;
- (l)* the manner in which bidders may seek clarification on the request for quotations;
- (m)* the manner in which the quotations shall be submitted; and
- (n)* the place, date and time for the submission of quotations.

(4) All bidders invited to participate in the procurement proceedings shall be provided with the same information and shall be assured of equal opportunities to obtain additional information on a timely basis.

(5) Each bidder is permitted to give only one price quotation and is not permitted to change its quotation and no negotiations shall take place between the procuring entity and a bidder with respect to a quotation presented by the bidder.

(6) The successful quotation shall be the lowest-priced quotation and substantially responsive to the conditions set out in the request for quotations.

27. (1) In the case of a single source procurement, the letter of invitation shall be sent to the selected bidder and it shall contain-

Procedure for single source procurement.

- (a)* the full name and address of the procuring entity;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (b)* instructions for submission of a quotation;
- (c)* a full description of the goods, works, consulting services or services to be procured, including the required technical or quality characteristics, specifications, designs, plans and drawings, as appropriate;
- (d)* the quantities of any goods, or the desired results of any service to be supplied or provided and the required time and place of delivery, any requirements for minimum performance, warranty and maintenance for such goods or management and reporting requirements of a service provider;
- (e)* whether any alternatives to the required specifications or characteristics of the goods or services, or to other contractual conditions, are to be permitted;
- (f)* the period during which the quotation is to remain valid;
- (g)* the form of contract, to include all conditions and terms of payment;
- (h)* a statement of the currency in which the supplier or service provider will be paid;
- (i)* a statement that the procuring entity does not bind itself to accept the quotation.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

(2) The procuring entity shall scrutinize any quotation received and, where necessary, negotiate with the supplier with a view to ensuring that the requirement for the goods or services are complied with, and the price quoted is not excessive and is in line with the objectives of section 3(1)(b) of the Act.

(3) The procuring entity shall not make undesirable reductions in the quality of the goods or services in order to achieve cost savings.

(4) When requesting approval of contracts for consulting services procured under the single source method, the procuring entity shall submit the Terms of Reference of the assignment, a sufficiently detailed justification including the rationale for single-source selection instead of a competitive selection process, and the basis for recommending a particular firm.

28. (1) Framework agreements are awarded by way of the open competitive bidding method and may be concluded between one or more procuring entities with one or more bidders.

Framework agreements.

(2) Where a framework agreement is concluded with a single bidder, contracts based on that agreement shall be awarded within the limits of the terms laid down in the framework agreement.

(3) Where a framework agreement is concluded with more than one bidder, contracts based on that agreement may be awarded either –

(a) by application of the terms laid down in the framework agreement without reopening competition, or

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

(b) where not all the terms are laid down in the framework agreement, by a re-opening of the competition on the basis of the same and, if necessary, more precisely formulated terms, and, where appropriate, other terms referred to in the specifications of the framework agreement.

(4) A procuring entity shall follow the procedures for awarding framework agreements and for contracts based on framework agreements which shall be set out fully in guidance issued by the Minister.

**PART IV
PROCUREMENT METHOD:
REQUEST FOR PROPOSALS**

Terms of reference.

29. The scope of the consultancy services shall be described in terms of reference which shall –

- (a) define clearly the objectives, goals, and scope of the assignment and provide background information to facilitate the consultants' preparation of their proposals;
- (b) list the services and surveys necessary to carry out the assignment and the expected outputs;
- (c) services, sufficient details of the training needs to enable consultants to estimate the required resources;
- (d) be sufficiently flexible to allow consultants to propose their own methodology and staffing; and
- (e) be commensurate with the available budget.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

30. (1) In establishing the short list under section 54(3)(b) of the Act, the procuring entity shall, to the greatest extent possible, ensure that such short list comprises consultants of the same category and similar capacity and business objectives. Shortlisting

(2) For assignments with an estimated value below fifty thousand dollars, the short list may be established from market knowledge or other sources of information.

31. (1) A request for proposals shall provide shortlisted bidders with the information necessary to enable them to participate in the procurement proceedings and to submit proposals that are responsive to the needs of the procuring entity including, in particular the – The request for proposal.

- (a) nature, time frame and location of the services to be provided, terms of reference, required tasks and outputs;
- (b) criteria to be used in evaluating and comparing proposals, and their relative weights as compared to price;
- (c) contractual terms of the procurement and the manner of entry into force of the contract;
- (d) instructions for preparation and submission of proposals and the place and deadline for submission of proposals;
- (e) final selection procedures to be applied; and
- (f) such matters as may be prescribed in the standard bidding documents.

(2) The price of a proposal shall be considered only after completion of the technical evaluation.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

Selection method.

32. When choosing the appropriate selection method under section 54(2) of the Act, the procuring entity shall take account of

-

- (a) the nature, size and complexity of the assignment,
- (b) the likely impact of the assignment on other assignments or projects, and
- (c) the weight to be given to the technical and financial components of proposals.

Selection based on quality and cost

33. (1) The selection based on quality and cost method uses a competitive process among short listed consultants that takes into account the quality of the proposal and the cost of the services in the selection of the successful consultant.

(2) The evaluation of proposals is carried out in two stages -

- (a) the quality of the proposals is evaluated on the basis of the technical envelope, and
- (b) the cost of the proposals is evaluated on the basis of the financial envelope.

(3) Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded.

(4) In evaluating the quality, the evaluators shall evaluate each technical proposal, taking into account –

- (a) the consultant's relevant experience for the assignment,
- (b) the quality of the methodology and workplan proposed,

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

(c) the qualifications of the key staff proposed, and

(d) transfer of knowledge, if required in the terms of reference.

(5) Each criterion shall be marked on a scale of 1 to 100 and then the marks shall be weighted to become scores. The weights to be used shall be appropriate to the specific assignment and shall be set out in the bidding documents.

(6) A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the terms of reference or it fails to achieve a minimum technical score specified in the request for proposals.

(7) The consultants whose technical proposals do not meet the minimum qualifying mark or are considered nonresponsive to the request for proposals and terms of reference shall be notified that their financial proposals will not be evaluated and their financial proposals shall be returned to them unopened after the signature of the contract.

(8) The procuring entity shall simultaneously notify the consultants that have secured the minimum qualifying mark, of the date, time, and place set for opening the financial proposals.

(9) The financial proposals shall be opened publicly, in the presence of representatives of the consultants and any member of the public who choose to attend and the name of the consultant, where the technical points and the total prices shall be read aloud and recorded when the financial proposals are opened.

(10) In considering the financial proposals, any arithmetical errors shall be corrected.

(11) For the purpose of comparing proposals, the costs shall be converted to a single currency as stated in the request for proposals.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(12) The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices.

(13) Where the methodology specified in subregulation (11) is not to be used, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the request for proposals.

(14) The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The weight for cost shall normally be 20 points out of a total score of 100. The proposed weightings for quality and cost shall be specified in the request for proposals. The firm obtaining the highest total score shall be invited for negotiations.

(15) Negotiations shall include discussions of the terms of reference, the methodology, staffing, the government entity’s inputs and special conditions of the contract. These discussions shall not substantially alter the original terms of reference or the terms of the contract.

(16) If the negotiations fail to result in an acceptable contract, the procuring entity shall terminate the negotiations and invite the next ranked firm for negotiations. The first-ranked consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the procuring entity shall not reopen the earlier negotiations.

(17) After negotiations are successfully completed, the procuring entity shall promptly notify other firms on the short list that they were unsuccessful.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

34. (1) The selection based on quality alone selection method is appropriate for assignments –

Selection based on quality alone.

- (a) which are complex or highly specialized and for which it is difficult to define precise terms of reference and where the consultants are required to demonstrate innovation; or
- (b) that have a high downstream impact; or
- (c) that can be carried out in substantially different ways, such that proposals will not be comparable

(2) Pursuant to section 54(3)(d) of the Act, the request for proposals may request submission of a technical proposal only, or request submission of both technical and financial proposals at the same time, but in separate envelopes.

(3) The request for proposals shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

(4) If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as set out in regulation 33(4) to (7), the procuring entity shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The procuring entity and the consultant shall then negotiate the financial proposal and the contract.

(5) All other aspects of the selection process shall be the same as those set out in regulation 33.

(6) If consultants were requested to provide financial proposals initially together with the technical proposals, only the financial proposal of the selected firm shall be opened. The remaining financial proposals shall not be opened and returned

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

after the negotiations are successfully concluded.

Selection based on
quality within a fixed
budget.

35. (1) This method is appropriate when the assignment is simple and can be precisely defined, and when the budget is fixed.

(2) The request for proposals shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget.

(3) Evaluation of all technical proposals shall be carried out first as set out in regulation 33(4) to (7). The priced proposals shall then be opened in public and prices shall be read out aloud.

(4) Proposals that exceed the indicated budget shall be rejected.

(5) The Consultant who has submitted the highest ranked technical proposal among the remaining proposals shall be selected and invited to negotiate a contract.

Selection based on least
cost.

36. (1) The Selection based on least cost method is appropriate for assignments of a standard or routine nature (financial audits, architectural and engineering design for non-complex works, etc.) where well established practices and standards exist, and in which the contract amount is less than fifty thousand dollars.

(2) A minimum qualifying mark for the quality is established on the basis that all proposals above the minimum compete only on cost, and the minimum qualifying mark shall be stated in the request for proposals.

(3) Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark are rejected and the financial proposals of the proposals which are technically qualified are opened publicly.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(4) The firm with the lowest price is selected.

37. (1) Individual consultants are employed on assignments for which

Selection of individual consultants.

(a) a team of experts is not required,

(b) no additional outside (home office) professional support is required, and

(c) the experience and qualifications of the individual are the paramount requirement.

(2) The procuring entity shall prepare the terms of reference, and Request for Expressions of Interest requesting information on the consultants' experience and competence relevant to the assignment.

(3) Submissions shall be evaluated and the consultant with the most appropriate qualifications and references shall be asked to submit a concise combined technical and financial proposal.

(4) The proposal shall be assessed to ensure that the requirements of the terms of reference are still met and that the proposal is acceptable given the estimated budget.

(5) If the proposal is acceptable, the consultant will be invited to negotiate the contract.

PART V
DISPOSAL OF PUBLIC PROPERTY

38. The functions of a procurement and property disposal officer in disposing of assets that are unserviceable, obsolete or surplus shall include –

Arranging for disposal.
Chap. 63:02.
Subsidiary.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- (a) receiving and verifying disposal requests;
- (b) processing disposal requests in accordance with the Financial (Stores) Regulations.

Methods of disposal.

39. The procuring entity may dispose assets by one of or a combination of the following means, however classified:

- (a) sale;
- (b) transfer the property to another entity;
- (c) destruction or writing off the asset;
- (d) trade-in;
- (e) conversion or classification of asset to another form.

**PART VI
CHALLENGE AND REVIEW**

Registration of
Applications.

40. (1) Without prejudice to the Sixth Schedule of the Act, following receipt of the Reply under paragraph 6 of the Sixth Schedule of the Act, the Secretariat shall collate all the relevant documents into a single case file, including the Application for Reconsideration, the Reply, the documentary evidence provided by the parties and the powers of attorney, if any.

(2) The Secretariat shall formally assign the case to the Review Council and the Secretariat will provide the Review Council with a copy of the case file.

(3) Following confirmation of assignment of the case to the Review Council and receipt by the Secretariat of the procedural

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

instructions for the review from the Review Council, the Secretariat shall register the commencement of the review procedure in the Review Register as the 'date of commencement'.

(4) The Secretariat shall immediately notify the parties of the date of commencement and provide them with a copy of the case file and the procedural instructions for the review.

41. (1) The Review Council shall, taking into account the nature of the case submitted determine the order, time and place of any hearing it intends to hold.

Opening of the review procedure.

(2) At the request of the parties, the Review Council may proceed to make a recommendation in the absence of a hearing, and in such a case, the Review Council, if satisfied that it can reach a definitive opinion on the basis of the terms of reference and without hearing the parties, may proceed to reach a recommendation without a hearing.

(3) In determining the order and time of the hearing, the Review Council shall give sufficient consideration to preventing the delay of the proceedings.

(4) The Secretariat shall communicate this decision to the parties.

42. (1) A hearing shall take place in the manner provided for by the Review Council.

Hearings.

(2) If one of the parties, despite having received notice of the hearing, fails to appear, the Review Council, if satisfied that the notification was received and the party is absent without good cause, shall have power to proceed with the proceedings which shall be deemed to have been conducted in the presence of all parties.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

(3) A hearing shall be closed to the public save that, with the consent of the Review Council, persons having a justifiable interest in the proceedings may be admitted.

(4) The Secretariat shall, for each hearing, take and keep minutes or ensure that such are taken and kept stating the time, place and the names of those attending together with a summary record of the meeting or hearing.

Evidence.

43. (1) All relevant documentary evidence relied on by the parties in support of their claims and replies shall be put before the Review Council in the form of copies of the Application for Reconsideration and Reply Forms.

(2) Subsequent documentary evidence shall be admitted only where, in the opinion of the Review Council, it is relevant and only with the Review Council's consent.

(3) During the hearing, any party may submit oral evidence in support of its own contentions by way of the voluntary appearance of witnesses.

(4) The Review Council may, at its discretion, request the submission of further documentary evidence from the parties or request the presence of other witnesses or expert witnesses.

Conclusion of
Proceedings.

44. (1) The Review Council shall, when satisfied that all contentions and evidence of the parties have been submitted, conclude the proceedings.

(2) The Review Council shall deliver its decision within ten working days of the date of commencement, subject to any adjournment that proves necessary in the opinion of the Review Council which may not exceed a further fifteen days.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

(3) The decision of the Review Council shall be confined to the issues raised by the Application for Reconsideration and Reply.

(4) The decision of the Review Council shall be final and binding, subject only to judicial review on a point of law.

45. The Secretariat shall be responsible for:

Functions of the
secretariat.

- (a) keeping up to date the Register of Applications for Reconsideration to the Review Council;
- (b) maintaining the files of applications and for keeping them fully up to date;
- (c) supporting the Review Council, organising its work and carrying out of all clerical and logistical requirements of the procedure;
- (d) informing the parties to the Review of all arrangements made under the authority of the Review Council including, but not limited to, the appointment of the Review Council, the form and manner of the procedure, the date of hearings, the order of hearings;
- (e) drawing up minutes of meetings of the Review Council, hearings and witness statements and any other order or document as required by the Review Council;
- (f) distributing the decision of the Review Council to the parties;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (g)* maintaining records of all procedures and decisions;
- (h)* ensuring the publication of summaries of the decisions of the Review Council either on the public procurement website or any other appropriate media;
- (i)* maintaining, distributing free of charge and placing on the website all forms to be used in the Review procedure.

Register of Applications.

46. (1) The Register of Applications shall be the main instrument through which the Review procedure will be organised and recorded. It is maintained by the Secretariat.

(2) The Secretariat shall:

- (a)* maintain the Register of Applications in paper form and the pages of the register shall be numbered in advance;
- (b)* keep a copy of the Register of Applications in electronic form but the paper form shall be authentic;
- (c)* ensure that the procedural documents in applications referred to the Review Council, including documents lodged by the parties and documents served by the Secretariat, are entered in the Register of Applications;
- (d)* ensure that entries in the Register of Applications are made chronologically in the order in which the documents to be registered are lodged, and numbered consecutively;
- (e)* ensure that when an application for Reconsidera-

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

tion Form is registered, the application is given a serial number followed by a mention of the year and a statement of the name of the applicant, and applications are referred to by their serial numbers and this number shall be used to identify all subsequent registrations pertaining to that application;

- (f)* ensure that procedural documents shall be registered as soon as they are lodged at the Secretariat, and documents drawn up by the Review Council or by the Secretariat are registered on the day of issue.
- (g)* ensure that entries Register of Applications contain the information necessary for identifying the document and in particular:
 - (i)* the date of registration,
 - (ii)* the reference number of the application to which it refers,
 - (iii)* the nature of the document,
 - (iv)* the date of the document.
- (h)* ensure that the registration number of every document drawn up by the Review Council is noted on its first page.
- (i)* ensure that a note of the registration is stamped on the original of every document lodged by the parties, and it is worded as follows:

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

“Registered by the Secretariat under No. _____
Application for Reconsideration No. ____/20____/____
Roseau, _____ day of _____ 20____”.

Lodging the application.

47. (1) Applications shall be lodged with the Secretariat in accordance with paragraph 5 of the Sixth Schedule of the Act.

(2) On receipt of a valid application, the Secretariat shall within one working day:

- (a) notify the procuring entity (Respondent) of the application, including the assigned case reference number, the date of issue and the documentary evidence relied upon;
- (b) request a reply within three working days from the Respondent together with any documentary evidence upon which it intends to rely;
- (c) notify all bidders in the same contract award procedure who received the bidding documents and any other person in accordance with section 71(2) of the Act of the receipt of the application, case reference number and the date of issue; and
- (d) invite them to respond within three working days if they intend to participate further in the proceedings.

(3) If any third party notified in accordance with subregulation (2)(d) submits a response, the Secretariat shall register that response in the Register of Applications.

(4) If such party requests to participate in the proceedings, the Secretariat shall send them a copy of the case file and register them as a party.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

(5) All notifications sent to the applicant and respondent under these Regulations shall also be sent to the participating third party.

48. (1) On receipt of a Reply by the Respondent, the Secretariat shall register the Reply in the Register of Applications in accordance with regulation 46 (2)(a) to (i).

Receipt of Reply.

(2) Where the Respondent has notified in its Reply its intention to challenge the automatic suspension of the procedure set out in paragraph 1(3) of the Sixth Schedule of the Act, the Secretariat shall make arrangements for a hearing of the challenge.

(3) Where no Reply has been received within three working days, the Secretariat may proceed to finalise the case file.

(4) Within three working days of the appointment of the Review Council, the Secretariat shall send the case file to the members of the Review Council.

(5) On receipt of procedural instructions from the Review Council, the Secretariat shall immediately communicate these to the Parties.

49. The Secretariat to the Review Council shall carry out the instructions of the Review Council in respect of the arrangements and conduct of the procedure including, but not limited to:

Assisting the Review Council.

- (a) acting as liaison and point of communication between the parties and the Review Council;
- (b) making logistical arrangements in respect of, for example, a location for the hearing, if any, transport for the Review Council, translation of any documents required for the hearing;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (c)* communicating to the parties the decisions of the Review Council in respect of the order, time and place of any hearings, if any, of the manner of conducting the procedure and of any other instructions of the Review Council;
- (d)* taking and keeping minutes of all meetings of the Review Council, hearings, stating the time, place and the names of those attending together with a summary record of the meeting or hearing;
- (e)* where the Review Council has so ordered or where there has been an application for such a record by one of the parties taking or arranging for taking of a stenographic record of the hearing;
- (f)* taking or arranging for taking and keeping minutes of all oral evidence presented during the hearing; such minutes to be signed by the Chairman of the Review Council;
- (g)* transmitting the Decision of the Review Council to the parties;
- (h)* registering all forms, orders, instructions and decisions issued in the procedure in the Register of Applications in accordance with regulation 46(a) to *(i)*.

Manner and form of
procedure.

50. The Review Council shall determine the manner, form and order of the procedure, and it shall do so by providing procedural instructions to the Secretariat, in particular in respect of:

- (a)* additional evidence and witnesses to be called

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

- (b)* the decision on whether or not to hold a hearing
- (c)* the place, date and time of any hearing, if any
- (d)* the order of the procedure

51. The Secretariat shall –

Publicity of decisions.

- (a)* produce a summary of each decision which shall include the basic facts, reasoning and findings of the Review Council;
- (b)* publish such a summary on the public procurement website under a section reserved for that purpose;
- (c)* maintain copies of the full text of each decision and make it available to the public on request, and it may make a charge for reproducing the decision;
- (d)* to the extent that finances permit, compile and publish an annual collection of the decisions of the Review Council which may be put up for sale.

**PART VII
CONTRACT ADMINISTRATION**

52. (1) The procuring entity shall designate one or more procurement and property disposal officers as the contract administrator for the procuring entity or for each procurement, as appropriate.

Appointment of contract administrator.

(2) The contract administrator shall administer the contract with appropriate technical input and support from the staff of the procuring entity in accordance with the terms and condi-

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

tions of the contract, the Act and Regulations and the procedures approved by the Minister, but shall not agree to any change in the contract price or the material terms of a procurement contract without the prior approval, in writing, of the person identified in section 44(4) and the Second Schedule of the Act.

(3) Without limiting the generality of subregulation (1), the contract administrator shall -

- (a) keep an accurate record of all dealings with the contractor including minutes of every meeting with the contractor and the details of any matter discussed or decision made; and
- (b) represent the interests of Dominica and the procuring entity under every procurement contract.

(4) The contract administrator shall report any substantial breach of contract to the head of the procuring entity.

Duties of contract administrator.

53. (1) A contract administrator shall-

- (a) manage the obligations and duties of the procuring entity specified in the contract; and
- (b) ensure that the contractor performs the contract in accordance with the terms and conditions of the contract.

(2) A contract administrator is responsible for-

- (a) monitoring the performance of the contractor, to ensure that all delivery or performance obligations are met or appropriate action taken by the procuring entity in the event of obligations not being met;

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

- (b)* ensuring that the contractor submits all required documentation;
- (c)* ensuring that the procuring entity meets all its payment and other obligations on time and in accordance with the contract;
- (d)* ensuring that there is adequate costs, quality and time control, where required;
- (e)* preparing any required contract variations or modifications and obtaining, as appropriate, the required confirmations of compliance and approvals under the Second Schedule of the Act before their issue;
- (f)* managing any handover or acceptance procedures;
- (g)* making recommendations for contract termination, where appropriate, and obtaining all required approvals and managing the termination process;
- (h)* ensuring that the contract is complete, prior to closing the contract file;
- (i)* ensuring that all contract administration records are kept and archived as required; and
- (j)* ensuring that the contractor and the procuring entity act in accordance with the Act, these Regulations and the contract.

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

Inspection and
verification.

54. (1) A procuring entity shall ensure that there is stated in a contract that the procuring entity has the right to inspect goods works or services at any reasonable time or place clearly state all requirements relating to inspection.

(2) The procuring entity shall ensure that all goods, works and services are subject to inspection and verification by the contract administrator, supervising engineer or inspection and receipt committee, as appropriate, prior to their acceptance.

(3) The inspection and verification shall ensure that-

- (a) the correct quantity has been received;
- (b) the goods, works or services meet the technical standards defined in the contract;
- (c) the goods, works or services have been delivered or completed on time, or that any delay has been noted;
- (d) the goods are new, unused and of the most recent or current models;
- (e) all required deliverables have been submitted;
and
- (f) all required manuals or documentation have been received.

(4) The contract administrator, supervising engineer or inspection and receipt committee responsible for inspecting the goods, works or services shall issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

**PART VIII
MISCELLANEOUS**

55. (1) A procuring entity shall maintain an easily accessible and retrievable individual record for each procurement which shall be marked with the relevant procurement reference number.

Recording and reporting.

(2) Where appropriate, the record shall contain the originals and copies, of all information, documents and communications related to that procurement proceeding and shall, to the extent that not already contained in the proposed procurement plan or identified in section 48(1) of the Act, also include at least the following:

- (a) documents indicating approvals to execute the various stages of the procurement process;
- (b) any requests for clarifications and any responses thereto;
- (c) bids, including reasons for any rejection based on abnormally low bids;
- (d) the manner of conducting and results of any trials, sample testing or other methods of technical evaluation applied;
- (e) a record of the reasons for not dividing a single requirement into lots;
- (f) a record of the reasons for not applying a set aside pursuant to any policy adopted by the Minister;

**2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY**

(g) the signed contract and subsequent amendments;
and

(h) any other information required by the Minister, to
be recorded.

(3) The record shall be prepared and disclosed in a manner that avoids disclosure of proprietary commercial information.

(4) The record or selected parts of the record shall, on request, be made available to any person having a legitimate interest after a bid has been awarded, unless any portion of the record is required to be disclosed earlier pursuant to law, or by order of the Chief Procurement Compliance Officer, the Board, the Review Council or a competent court.

(5) Procuring entities shall submit report summaries on their procurement activities to the Board in accordance with templates and instructions issued by the Board.

[illegible]

SECOND SCHEDULE

(Regulation 5(2))

Summary Annual Procurement Plan

Procurement Plan summary

Name of Procuring Entity:					
Fiscal Year:					
<i>Procurement Category</i>	<i>Specific Contracts</i>	<i>Procurement Method</i>	<i>Proposed date of Pre-qualification/ call for expressions of interest</i>	<i>Proposed date of invitation to bid/ quote/submit proposal</i>	<i>Estimates time for delivery/ execution/ completion</i>
Goods:					
1					
2					
Works:					
1					
2					
Services:					
1					
2					
Consultancy Services:					
1					
2					

2022 PUBLIC PROCUREMENT AND S.R.O. 14
DISPOSAL OF PUBLIC PROPERTY

Made by the Minister this 15th day of April, 2022.

ROOSEVELT SKERRIT
Minister for Finance

DOMINICA
Printed by the Government Printer at the Government Printery, Roseau
(Price \$13.40 cents)