

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED  
BY RWANDA**

**ARTICLE 9, PARAGRAPH 1 UNCAC**

**PUBLIC PROCUREMENT**

**RWANDA (SIXTH MEETING)**

**Measures taken to secure integrity in public procurement processes (art. 9.1)**

Rwanda has elaborated and implemented the law n°05/2013 of 13/02/2013(the 2013) modifying and completing the law n°12/2007 of 27/03/2007(the 2007 law) on public procurement and the ministerial order n° 001/14/10/tc .of.19/02/2014 establishing regulations on public procurement, standard bidding documents and standard contracts (the ministerial order).

Principles governing the public procurement are transparency, competition, economy, efficiency, fairness and accountability (art. 4 of the law n°12/2007 of 27/03/2007 on public procurement).

In consideration of the article 9,1 of the UNCAC, important issues addressed by the above-mentioned legal instruments are the following:

**1. Public procurement planning which includes** the following aspects: identification of needs, identification of priorities, indication if it is necessary to carry out a prior study for tenders of works, identification of the procurement method to be used for any planned tender, estimation of the value of the planned tender, specification of the source of funds for that tender, determination of the necessity to grant local preference to international tenders, specification of the need for request for approval prior to the award of contract, planning for the schedules in which different processes of tendering shall be carried out, planning for the execution schedules of the contract (art.2 of the ministerial order ).

**2. Publication of the public procurement plan:** "Any communication between the procuring entity and the bidder shall be made in writing" (art. 7 of the 2007 law). "Some

of the elements of the procurement plan namely title and quantity of the tender, method of tendering, source of funds, expected publication and execution dates shall be published. " (Art. 3 of the ministerial order). The advertisement should be made by the information which be "posted on the official website of the procuring entity, posted on the RPPA official website, advertised in at least one newspaper of wide circulation, which may be national or international and displayed on the procuring entity's notice board." (Art. 3 of the ministerial order)

**3. Establishment of internal tender committee composed of** be composed of five (5) or seven (7) persons appointed "for a term of three (3) years which can be renewed only once (1)" (art. 8 of the ministerial order). According to art. 10 of the ministerial order, the following officials are not allowed to be members of the internal tender committee: the head of a public body, the members of Executive committees of Districts and the City of Kigali, the chief budget manager, the Head of finance Unit, the internal auditor, the legal advisor, the officer in charge of logistics.

**4. Procurement methods** which are open competitive bidding, two-stage tendering, restricted tendering, request for quotation, single sourcing, simplified method, force account and community participation (art.23-58 of the 2007 law).

**5. Ways and organs for review** including the administrative review organs (the procuring entity, the District Independent Review Panel or National Independent Review Panel as provided by art. 70 of the 2007 law). Art. 69 of the 2007 law provides for review:

- Gracious review is addressed to the procuring entity within 7 calendar days from the date where the administration fact occurred
- Review to Independent Review Panels within 7 calendar days following the time the complainant became aware of the circumstances giving rise to the complaint or should have become aware of those circumstances

- The right to review in front of the jurisdiction against a decision taken before the signing of the contract is prescribed after 30 days taking course from the date of signing the contract.

**6. Anti-corruption measures: (art. 15 of the 2007 law and art.10 of the 2013 law)** "It is strictly prohibited to solicit directly or indirectly, offer to any official or a former employee of the procuring entity or other public authority, a bribe in any form, an offer of employment or any other service or anything of value meant to compromise someone with respect to any act or decision in connection with the procurement proceedings. The Tender Committee shall reject any bidder's offer where it is established that the latter was engaged in any corrupt or fraudulent practices while competing for a public procurement contract."

**7. Conflict of interests (art. 11 of the 2013 law):**

"Members of the Cabinet, Heads of procuring entities, members of council of a District, those of the Sector and Civil Servants in general shall not bid for public tenders. A firm in which a civil servant, his/her spouse or his/her child is a shareholder, representative or member of the Board of Directors shall not participate in procurement proceedings within the entity where that civil servant is an employee.

It is prohibited for members of the tender committee or any other person involved in the procurement award process or the management of procurement contract in which the following persons have participated:

- 1° his/her relative up to the second degree in direct line and to the third degree in collateral line;
- 2° his/her former employer except after five (5) years he/she ceases to be his/her employee;
- 3° a person with whom they have a financial interest;
- 4° the bidder has an agreement with them or she/he is expecting employment or any other benefit from them.

A consultant who has been hired by a procuring entity to provide consulting services for the preparation and implementation of a tender or a company connected to the consultant shall not be allowed to bid for providing goods, works or consultant services related to that tender."

**8. Debarment of bidders (art. 12 of the 2013 law):**

"He/she shall be debarred from participation in public procurement for five ( 5) years any bidder who provides false information regarding the company, its documents, its capacity, who is found guilty of violating laws to obtain a procurement contract, who is found guilty of forgery and the use of forged documents in public procurement, who uses false public procurement contract so as to get a bank loan, who changes address without informing the contracting authority. He/she shall be debarred from participation in public procurement for four (4) years a bidder who makes collusion with other bidders with the intention to interfere with the fair competition of competing bidders, who makes fraudulent over estimated prices, who makes collusion with public official concerning the preparation of bidding documents. He/she shall be debarred from participation in public procurement for four (4) years a bidder who poorly performs or does not perform his/her contract obligations for reasons that are not connected with the procuring entity. Recidivism shall lead to indefinite debarment."

For effective coordination of public procurement, Rwanda has put in place RPPA (Rwanda Public Procurement Authority) empowered "to ensure organization, analysis and supervision in public procurement matters" (art.3, 1° of the law N°25/2011 of 30/06/2011 establishing Rwanda Public Procurement Authority (RPPA) and determining its mission, organization and functioning). RPPA conducts procurement audits and provides substantial recommendations. Other entities empowered to conduct audit such as the Office of the Ombudsman, the Office of the Auditor General of State Finances, the Province and the District provide recommendations to audited bodies in order to comply with the law of public procurement.

RPPA publishes on its website the blacklist of debarred bidders. Moreover, it has carried out the classification of bidders according to their technical and financial abilities so that each bidder participates in a bid fitting with his/her category in terms tender value.

Articles 628-632 of the organic law N° 01/2012/OL of 02/05/2012 instituting the penal code provides penalties (imprisonment and fine) against any person who violates the law on public tenders (art. 628), who awards a tender to an unqualified bidder (art. 629), who awards unjustified advantages during the performance of contract (art. 630), who colludes with bidders (art. 631), who awards tender without open competitive bidding (art. 632).