

## **PART 14 – SUPPLY AND TENDERS BOARDS – OPERATION AND ACCOUNTABILITY**

### **DIVISION 1 – ROLE AND RESPONSIBILITIES**

1. The Central Supply and Tenders Board and Provincial Supply and Tenders Boards are established by Parliament under the Public Finances (Management) Act in Sections 39 and 39B respectively. The Minister of Finance may also establish Specialised National Supply and Tenders Boards under Section 39A of the Public Finances Management Act.

2. **Role:**

The role of each Supply and Tenders Board is to ensure that major procurements conducted under its authority:

- a. Have been carried out in accordance with the Public Finances Management Act, Regulations, and Financial Instructions, and
  - b. Represent “value for money” for the Government of Papua New Guinea
3. In carrying out this role Supply and Tenders Boards must adhere to the principles of transparency, effective competition, fair and ethical dealing and efficient and effective operation as outlined in Part 11 of this Manual.
4. In addition, the Central Supply and Tenders Board has an additional role to “control and regulate” procurement in relation to “minor procurements”, major procurements and Provincial Supply and Tenders Boards, in accordance with Section 39 of the Public Finances Management Act. This role does NOT extend to Specialised National Supply and Tenders Boards.

5. **Key Responsibilities:**

The Chairman of the Supply and Tenders Board is ultimately responsible and accountable for the overall operation of the Supply and Tenders Board, in accordance with the Boards delegated authority.

6. It is the responsibility of all Supply and Tenders Board members and Board staff to have a full understanding of the Public Finances Management Act, Regulations, and Financial Instructions as they pertain to procurement.

### **DIVISION 2 – BOARDS ESTABLISHED AND DELEGATED AUTHORITY**

7. The following Boards have been established under Section 39 of the Public Finances Management Act, or by Notice in the National Gazette under the Public Finances Management Act:
  - a. Central Supply and Tenders Board
  - b. Pharmaceutical Supply and Tenders Board

- c. Gazelle Restoration Authority Supply and Tenders Board
  - d. A Provincial Supply and Tenders Board (by Notice) for each Province.
8. The jurisdiction, delegated authority and membership of each Board is outlined in the table below:

<b>Board</b>	<b>Jurisdiction and Delegated Authority</b>	<b>Membership</b>	<b>Quorum</b>	<b>Decision Making Process</b>
<b>Central Supply and Tenders Board</b>	<ol style="list-style-type: none"> <li>The Board may invite tenders for the purchase or disposal of goods, works or services up to an unlimited value.</li> <li>The Board may execute contracts up to a value of K10.0m for the purchase or disposal of goods, works or services.</li> </ol>	<p><b>Chairman: (Appointed by Cabinet)</b></p> <p><b>Members:</b>  <b>Ex-Officio</b>  <b>Secretary of Finance</b>  <i>Alternate: Deputy Secretary of Finance</i>  <b>Secretary of Works</b>  <i>Alternate: Deputy Secretary of Works</i>  <b>Secretary of Trade and Industry</b>  <i>Alternate: Deputy Secretary of Trade and Industry - Policy</i>  <b>State Solicitor</b>  <i>Alternate: Deputy State Solicitor</i>  <b>Other Members</b>  <b>University Nominee</b>  <i>Alternate: University Nominee</i>  <b>PNG Chamber of Commerce and Industry Nominee</b>  <i>Alternate: PNG Chamber of Commerce and Industry Nominee</i></p>	<p>4 members. At least 1 person MUST be a non-public office holder. No greater than 2 alternates can be included in the quorum.</p>	<ol style="list-style-type: none"> <li>All Board members and the Chairman (present at a properly constituted meeting) have an equal vote.  Chairman has a casting vote if for and against votes are in equal numbers.</li> <li>The Board will form a decision once a majority of the members agree in relation to the matter under consideration.</li> </ol>
<b>Pharmaceutical Supply and Tenders Board</b>	<ol style="list-style-type: none"> <li>The Board may invite tenders and execute contracts for the purchase or disposal of medical supplies and equipment up to a value of K1.0m.</li> </ol>	<p><b>Chairman: Secretary for Health</b></p> <p><b>Members:</b>  <b>Ex-Officio</b>  <b>FAS (Public Accounts)</b>  <i>Alternate: AS (Accounting)</i>  <b>State Solicitor</b>  <i>Alternate: Deputy State Solicitor</i></p>	<p>3 persons of whom no more than one shall be an alternate</p>	
<b>Gazelle Restoration Authority Supply and Tenders Board</b>	<ol style="list-style-type: none"> <li>The Board may invite tenders and execute contracts for and on behalf of the Gazelle Restoration up to a value of</li> </ol>	<p><b>Chairman:</b>  Project Manager  Project Implementation Unit  <b>Deputy (Alternate) Chairman:</b>  Provincial Works Manager  Department of Transport &amp; Works</p>	<p>3  (No more than one of the 3 can be a</p>	<ol style="list-style-type: none"> <li>All Board members and the Chairman (present at a properly constituted meeting) have an equal vote.</li> </ol>

Board	Jurisdiction and Delegated Authority	Membership	Quorum	Decision Making Process
	K1,000,000.	<b>Members:</b> a. Senior Project Engineer, Gazelle Restoration Authority <i>- Alternate - Project Engineer, Gazelle Restoration Authority</i> b. Provincial Legal Officer, Department of East New Britain c. First Assistant Secretary, Economic Services Division, Department of East New Britain <i>- Alternate - Assistant Secretary Economic Services Division Department of East New Britain</i>	Alternate)	2. The Board will form a decision once a majority of the members agree in relation to the matter under consideration.

Board	Jurisdiction and Delegated Authority	Membership	Quorum	Decision Making Process
<b>Provincial Supply and Tenders Boards</b>	<ol style="list-style-type: none"> <li>The Board may invite Provincial and Local Level Government tenders and execute Provincial and Local Level Government contracts for the purchase or disposal of goods, works or services up to a value of K3.0m.</li> <li>A Provincial Board may only invite tenders and execute contracts: <ol style="list-style-type: none"> <li>for the province in which it resides, and</li> <li>where funding for the contract is provided from Provincial or Local Level Government within the province.</li> </ol> </li> </ol>	<p><b>Chairman: Provincial Administrator</b>  <i>Alternate: Deputy Provincial Administrator</i></p> <p><b>Members:</b>  <b>Ex-Officio</b>  <b>Provincial Works Manager</b>  <i>Alternate: Advisor Technical Services</i>  <b>Advisor Planning and Budgeting</b>  <i>Alternate: Deputy Advisor Planning and Budgeting</i>  <b>Provincial Treasurer</b>  <i>Alternate: Provincial Expenditure Accountant</i></p> <p><b>Other Members</b>  <b>Provincial Chamber of Commerce Nominee</b>  <i>Alternate: Provincial Chamber of Commerce Nominee</i></p> <p><b>Where no Provincial Chamber of Commerce exists, the PNG Business Council is to nominate a member.</b></p>	3 persons of whom no more than one shall be an alternate	<ol style="list-style-type: none"> <li>All Board members and the Chairman (present at a properly constituted meeting) have an equal vote.  Chairman has a casting vote if for and against votes are in equal numbers.</li> <li>The Board will form a decision once a majority of the members agree in relation to the matter under consideration.</li> </ol>

9. Where a tenders value is greater than the delegated authority of a Supply and Tenders Board, or outside the jurisdiction of a Supply and Tenders Board, then it **MUST** be referred to the Central Supply and Tenders Board **for tendering and contract execution**.
10. Where a tender to be decided, is beyond the delegated authority of the Central Supply and Tenders Board, it must be referred to the Minister responsible, with a recommendation as to the preferred tenderer. The Board's recommendation must have attached the:
  - a. Reasons for forming the recommendation, and
  - b. Tender advertisement, and
  - c. Conditions of tender, and
  - d. Contract Agreement, and
  - e. State Solicitors clearance.

The Minister responsible will present the recommendation and attachments to the National Executive Council for a decision as to the successful tenderer to be made. Once the National Executive Council has made a decision in relation to the preferred tenderer the contract is to be executed by the Head of State.

11. Copies of the NEC decision and executed contract must be returned to the Central Supply and Tenders Board and the Department / Agency administering the contract.

### **DIVISION 3 – CONTROL AND REGULATION OF PROCUREMENT**

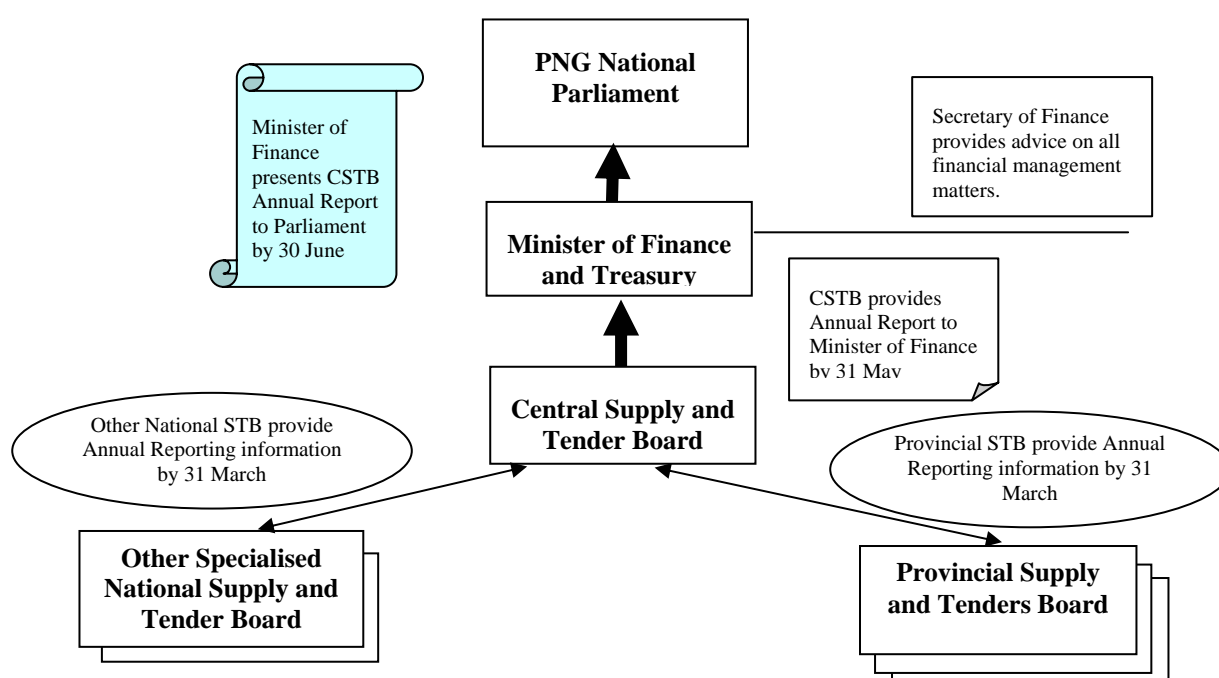
12. Section 39 of the Public Finances Management Act establishes the Central Supply and Tenders Board, and provides it with the power to "control and regulate" procurement.
13. In exercising this power the Central Supply and Tenders Board shall:
  - a. Conduct all major procurements that fall outside of the authority of Provincial and Specialised Supply and Tenders Boards; including those where the contract executing authority is the Head of State.
  - b. Require Provincial Supply and Tenders Boards to provide periodic reports in relation to their activities, for publication in the Central Supply and Tenders Board Annual Report.
  - c. Require Departments to report upon their procurements, both major and minor.
  - d. Request Specialised Supply and Tenders Boards to provide periodic reports in relation to their activities.

- e. Monitor and analyse trends in procurement (major and minor) within departments and provinces.
- f. Conduct procurement audits and inspections in conjunction with other empowered authorities.
- g. Recommend to the Minister of Finance and Treasury, through the Department of Finance changes necessary to the Public Finances (Management) Act, Regulations, and Financial Instructions for the effective control and management of procurement.
- h. Recommend to the Minister of Finance and Treasury, through the Department of Finance changes necessary to the delegated jurisdiction and authority of Provincial and Specialised Supply and Tenders Boards.

#### **DIVISION 4 – ACCOUNTABILITY AND REPORTING ARRANGEMENTS**

14. The accountability and reporting arrangements have been structured to support the principles of transparency and accountability.

15. The diagram below summarises the Annual Reporting arrangements.



#### **16. Central Supply and Tenders Board:**

The Central Supply and Tenders Board is responsible and accountable to the Minister of Finance and Treasury.

17. The Chairman of the Central Supply and Tenders Board is to provide the Minister with an "Annual Report" detailing the Boards activities during the

previous calendar year, by 31st May of the current year. At a minimum this report must include:

- a. Chairman's Summary
  - b. Board Structure
  - c. Board "Mission" and Level of Delegated Authority
  - d. Description of Board Operations for the Year including:
    - 1) Departments using the Boards Services, and
    - 2) Number of Meetings Held during the Year
    - 3) The Value and number of contracts awarded by the Board in summary form
    - 4) A list of contracts awarded by the Board including a brief description of the work, company awarded, and value of the contract
    - 5) A list of contracts awarded by the Board during the year by Certificate of Inexpediency, including a brief description of the work, company awarded, and value of the contract
    - 6) A list of contracts awarded by the Board during the year where the application of the Economic Development Surcharge has altered the outcome (selected tenderer) of the tender.
  - e. A summary of the operations of Supply and Tenders Boards that are supervised by the Central Supply and Tenders Board including:
    - 1) A list of the Supply and Tenders Boards supervised
    - 2) A list of contracts awarded by each supervised Board including a brief description of the work, company awarded, and value of the contract
    - 3) A list of contracts awarded by the each supervised Board during the year by Certificate of Inexpediency, including a brief description of the work, company awarded, and value of the contract
  - f. A summary of any contract audit and training activities conducted by the Board during the year
  - g. Future Directions for GoPNG procurement
18. The Minister will present the Annual Report to Parliament by 30th June of the year subsequent to which the report refers.



**19. Provincial Supply and Tenders Boards:**

Provincial Supply and Tenders Boards are required to provide the Central Supply and Tenders Board with details of their operations for publication in the Annual Report.

20. Each Supply and Tenders Board is required to submit to the Central Supply and Tenders Board by 31st March of the current year the following information in relation to the previous calendar year:

- a. The jurisdiction and delegated authority of the Board
- b. A list of contracts awarded by the Board including a brief description of the work, company awarded, and value of the contract
- c. A list of contracts awarded by the Board during the year by Certificate of Inexpediency, including a brief description of the work, company awarded, and value of the contract
- d. Details of any matters which are inhibiting the Boards ability to:
  - 1) Achieve "value for money" in major procurements, or
  - 2) Apply the law or good practice in relation to procurement.
- e. Any other information reasonably required by the Central Supply and Tenders Board.

21. The Central Supply and Tenders Board may (independently, or in conjunction with other legislatively empowered officers (eg Auditor Generals Office)), require Provincial Supply and Tenders Boards to provide details of:

- a. Contracts executed, and
  - b. Board minutes, and
  - c. Conflict of Interest Register,
- for independent scrutiny.

**22. Other Specialised Supply and Tenders Boards:**

Other Specialised Supply and Tenders Boards are requested to provide the Central Supply and Tenders Board with details of their operations for publication in the Annual Report.

23. Each Supply and Tenders Board is requested to submit to the Central Supply and Tenders Board by 31st March of the current year the following information in relation to the previous calendar year:

- a. The jurisdiction and delegated authority of the Board

- b. A list of contracts awarded by the Board including a brief description of the work, company awarded, and value of the contract
  - c. A list of contracts awarded by the Board during the year by Certificate of Inexpediency, including a brief description of the work, company awarded, and value of the contract
  - d. Details of any matters which are inhibiting the Boards ability to:
    - 1) Achieve "value for money" in major procurements, or
    - 2) Apply the law or good practice in relation to procurement.
  - e. Any other information reasonably required by the Central Supply and Tenders Board.
24. The Central Supply and Tenders Board may (independently, or in conjunction with other legislatively empowered officers (eg Auditor Generals Office)), request Other National Supply and Tenders Boards to provide details of:
- a. Contracts executed, and
  - b. Board minutes, and
  - c. Conflict of Interest Register,
- for independent scrutiny.

**25. General:**

The Minister of Finance and Treasury may remove (by notice in the National Gazette), the delegated authority of any Provincial or Specialised National Supply and Tenders Board not complying with the requirements specified in Division 3 or Division 4, Part 14 of the Financial Instructions.

## **DIVISION 5 – SUPPLY AND TENDERS BOARD PROCEDURES**

26. All Supply and Tenders Boards are to maintain written procedures, which comply with the Public Finances Management Act, Regulations, and Financial Instructions.
27. A template copy of Supply and Tenders Board Procedures is available from the Central Supply and Tenders Board.
28. These procedures are to be adhered to; failure to do so, will constitute an offence under the Public Finance Management Act.
29. The Central Supply and Tenders Board is able to provide Supply and Tenders Boards with template bid documents consisting of:

- a. Conditions of Tender
  - b. Specification and Scope
  - c. Conditions of Contract
  - d. Tenderer Response Sheets
- on request.

30. The templates cover:

- a. Works
- b. Goods and Services, and
- c. Major Consultancies

## **DIVISION 6 – COMPLAINT HANDLING**

31. All Supply and Tenders Boards must have written complaint-handling procedures.
32. Organisations directly involved in a major procurement may lodge complaints in relation to Supply and Tenders Board decisions to award tenders, or Certificates of Inexpediency, where the complainant organization has been directly involved in the procurement process. (eg tenderers, departments using the contract, genuine potential suppliers that may have been excluded from the procurement process)
33. Complaints should be resolved at the lowest possible level – preferably by the complainant and the Supply and Tenders Board.
34. If a complaint in relation to a Supply and Tenders Board decision is unable to be resolved with the Supply and Tenders Board, then the Complainant may request the Ombudsman Commission to review the process that led to the decision.

## **DIVISION 7 – RECORD KEEPING**

35. In order to ensure efficient administration is in place, and a proper audit trail of all major procurements is kept, Supply and Tenders Boards must maintain the following minimum level of records:
- a. Meeting Agenda for all Supply and Tenders Board meetings
  - b. Meeting Minutes Signed by all of the Supply and Tenders Board members present at the meeting in question
  - c. A contract file for each contract entered into

- d. Contract Register
- e. Conflict of Interest Register

These records must be maintained for a period of 6 years after the completion of the contract. Please note, the maintenance of the above records is a minimum requirement; good practice may require the keeping of additional records.

36. The contract file must contain as a minimum:

- a. A copy of the bid documents issued to tenderers (where the contract was formed through a tender process)
- b. A copy of the Tender advertisement (where the contract was formed through a tender process)
- c. A copy of each tenderers offer (where the contract was formed through a tender process)
- d. A copy of the report recommending the Preferred Supplier to the Board
- e. An extract from the Board minutes detailing the Board's Selected Supplier
- f. A copy of the signed contract agreement
- g. Documentation verifying that the contract has been completed (once the contract has been completed)

37. The Contract Register must contain the following minimum information:

- a. Description of Goods or services to be supplied
- b. Description of the Procurement Process used to award the contract (generally Public Tender or Certificate of Inexpediency)
- c. Company Awarded the Contract
- d. VAT Number of the Company Awarded the Contract
- e. Value of the Contract
- f. Date the Contract was awarded
- g. Date on which the Contract was Completed or terminated

38. The Conflict of Interest Register must retain the following minimum information:

- a. Name of the Board member declaring a "Conflict of Interest" situation,

- b. Description of the procurement in relation to which the conflict of interest was declared,
- c. Action taken by the Board member as a result of the conflict of interest situation, and
- d. Date on which the conflict of interest was declared.