



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$8.00

WINDHOEK - 22 September 2026

No. 9035

### CONTENTS

*Page*

#### GOVERNMENT NOTICES

|         |                                                                                            |   |
|---------|--------------------------------------------------------------------------------------------|---|
| No. 303 | Commencement of certain provisions of Public Procurement Amendment Act, 2022 .....         | 1 |
| No. 304 | Framework Agreement and Pooled Procurement Regulations: Public Procurement Act, 2015 ..... | 2 |

## Government Notices

### MINISTRY OF FINANCE

No. 303

2026

#### COMMENCEMENT OF CERTAIN PROVISIONS OF PUBLIC PROCUREMENT AMENDMENT ACT, 2022

In terms of section 32(1) of the Public Procurement Amendment Act, 2022 (Act No. 3 of 2022), I determine that –

- (a) the definitions of “framework agreement” and “pooled procurement” in section 1; and
- (b) section 15(b) and section 18,

come into effect on the date of publication of this notice in the *Gazette*.

**ERICA H SHAFUDAH**  
**MINISTER OF FINANCE**

Windhoek, 11 September 2026

**MINISTRY OF FINANCE**

No. 304

2026

**FRAMEWORK AGREEMENT AND POOLED PROCUREMENT REGULATIONS:  
PUBLIC PROCUREMENT ACT, 2015**

Under section 79(1)(k) read with sections 38A(6) and 38B(9) of the Public Procurement Act, 2015 (Act No. 15 of 2015), I have made the regulations set out in the Schedule.

**ERICA SHAFUDAH**  
**MINISTER OF FINANCE**

Windhoek, 19 August 2026

**SCHEDULE****ARRANGEMENTS OF REGULATIONS****CHAPTER 1  
INTRODUCTORY PROVISIONS**

1. Definitions
2. Application of Public Procurement Regulations and Code of Good Practice

**CHAPTER 2  
FRAMEWORK AGREEMENT****PART 1  
CONDITIONS FOR USE, AND TYPES, OF FRAMEWORK AGREEMENT**

3. Conditions for use of framework agreement
4. Types of framework agreements
5. Closed framework agreement without competition
6. Closed framework agreement with mini-competition
7. Duration of framework agreement

**PART 2  
STAGE ONE OF FRAMEWORK AGREEMENT**

8. Bidding procedure for stage one of framework agreement
9. Standard Bidding document for framework agreement

**PART 3  
TERMS AND CONDITIONS OF FRAMEWORK AGREEMENT**

10. Terms and conditions of framework agreement

**PART 4  
PROCEDURE FOR STAGE TWO OF FRAMEWORK AGREEMENT**

11. Eligibility for award of framework contract
12. Procedure for closed framework agreement without competition
13. Procedure for closed framework agreement with mini-competition amongst framework agreement suppliers
14. Awarding of contracts under framework agreement

## CHAPTER 3 POOLED PROCUREMENT

### PART 1 CONDITIONS FOR USE OF POOLED PROCUREMENT

15. Conditions for use of pooled procurement with other public entities in Namibia
16. Conditions for use of pooled procurement with entities outside Namibia
17. Conditions for use of pooled procurement with a foreign state, a regional or an international organisation
18. Conditions for use of pooled procurement from a regional or international organisation

### PART 2 POOLED PROCUREMENT PLANNING

19. Planning for pooled procurement by public entities
20. Pooled procurement of goods or works between public entities in Namibia
21. Pooled procurement of goods or works between public entities in Namibia and entities in another country or with a foreign state, a regional or international organisation
22. Pooled procurement of goods from a regional or international organisation
23. Bidding document for pooled procurement

### PART 3 PROCEDURES FOR POOLED PROCUREMENT

24. Procedure for pooled procurement with another public entity in Namibia
25. Procedure for pooled procurement with an entity in another country, foreign state, regional or international organisation
26. Procedure for pooled procurement from regional or international organisations
27. Handling of pooled procurement submissions by Board for pooled procurement with another public entity in Namibia
28. Handling of pooled procurement submissions by Board for pooled procurement with public entity in another country, foreign state, regional or international organisation

### PART 4 POOLED PROCUREMENT AGREEMENT

29. Content of pooled procurement agreement

## CHAPTER 1 INTRODUCTORY PROVISIONS

### Definitions

1. In these regulations a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates –

“call-off” means the placing of a purchase order in terms of a framework agreement;

“call-off contract” means a contract awarded, under a framework agreement, with or without competition, for the provision of goods, works or non- consultancy services;

“closed framework agreement” means a framework agreement where no new bidders may be added to the framework agreement during the duration of the framework agreement;

“closed framework agreement with mini-competition” means a framework agreement in terms of which a mini-competition will be conducted during stage two amongst bidders in the framework agreement, when the terms and conditions in the procuring of goods, works and non-consultancy services are not fully established during stage one;

“closed framework agreement without competition” means a framework agreement in terms of which all the terms and conditions for call-off contracts are established during stage one;

“Code of Good Practice” means the Code of Good Practice on preferences published under Government Notice No. 13 of 31 January 2023;

“framework agreement duration” means a period of the framework agreement within which the framework contracts may be awarded;

“framework contract” means a procurement contract awarded under a framework agreement;

“lead time” means the period of time it requires a supplier to deliver goods, works or services in accordance with a framework contract;

“mini-competition” means a competition between bidders within a framework agreement for the provision of goods, works and non-consultancy services to establish the lowest substantially responsive bidder;

“price fixing” means an agreement between bidders to raise, fix or otherwise maintain the price of goods, works or services;

“procuring agent” means a natural or juristic person procuring on behalf of a public entity or the Board when procuring with an entity from another country, a foreign state, regional or international organisation;

“Public Procurement Regulations” means the Public Procurement Regulations published under Government Notice No. 47 of 1 March 2017;

“State Finance Act” means the State Finance Act, 1991 (Act No. 31 of 1991);

“value for money” means the most advantageous combination of price and quality that make goods, works or services fit for purpose and will achieve the required outcomes of a buyer;

“the Act” means the Public Procurement Act, 2015 (Act No. 15 of 2015); and

“Treasury” means Treasury as defined in section 1 of the State Finance Act.

### **Application of Public Procurement Regulations and Code of Good Practice**

**2.** The Public Procurement Regulations and the Code of Good Practice apply to framework agreements and pooled procurements, except where specifically otherwise provided in these regulations.

CHAPTER 2  
FRAMEWORK AGREEMENT

PART 1  
CONDITIONS FOR USE, AND TYPES, OF FRAMEWORK AGREEMENT

**Conditions for use of framework agreement**

**3.** (1) In addition to section 38A(1) of the Act, the Board or a public entity may enter into a framework agreement for the supply of goods, works or non-consultancy services where –

- (a) the quantities and delivery schedules are not definable or determinable at the planning phase;
- (b) there are logistical and procurement reasons for having the requirement available on a call-off basis;
- (c) the arrangement would reduce procurement costs or lead times;
- (d) the extent and timing of the requirement including repairs and servicing of equipment cannot be defined in advance; or
- (e) the need for goods, works or non-consultancy services may arise on an urgent basis during a given period.

(2) The Board or a public entity may not use a framework agreement to prevent, restrict or distort competition by –

- (a) setting specifications that favour certain suppliers;
- (b) setting ambiguous scope of goods, works or non-consultancy services;
- (c) setting vague evaluation criteria; or
- (d) the procuring of goods, works or non-consultancy services that are outside the scope of the existing framework agreement.

(3) The Board or a public entity may not procure goods, works or non-consultancy services using a framework agreement of another public entity except for those concluded under pooled procurement as contemplated in regulation 15.

(4) The Board or a public entity may not procure goods, works or non-consultancy services outside an existing framework agreement, except –

- (a) where the price under the framework agreement is not fair and reasonable;
- (b) an additional delivery of related goods, works or non-consultancy services falls outside the scope of that framework agreement; or
- (c) where a supplier is unable to perform.

(5) The Board or public entity may modify specifications for goods, works or non-consultancy services if it is not inconsistent with subregulation (2)(a) or (d).

(6) The bidding document for the framework agreement must stipulate that where the price is not fair and reasonable, the public entity may procure outside an existing framework agreement as indicated in subregulation (4).

(7) Where the Board or public entity procures outside a framework agreement the Board or public entity must note in the record of procurement proceedings the reasons for procuring outside that framework agreement.

### **Types of framework agreements**

4. The Board or a public entity may use a –
- (a) closed framework agreement without competition; or
  - (b) closed framework agreement with mini-competition.

### **Closed framework agreement without competition**

5. (1) The Board or a public entity may, where all terms and conditions of the procurement have been established, enter into a framework agreement with no less than three bidders.

(2) A framework agreement must be concluded with the lowest evaluated substantially responsive bidder whose price is within the public entity's applicable cost estimate and other subsequent lowest evaluated substantially responsive bidders willing to supply at the price offered by the lowest evaluated substantially responsive bidder provided that the price, subject to regulation 10(2)(m), must remain fixed for the duration of the framework agreement.

(3) The Board or public entity may award a call-off contract under a framework agreement in accordance with the procedure set out in regulation 12.

(4) The ranking of bidders is determined in accordance with the outcome of the bid evaluation process, with the first-ranked bidder being the lowest evaluated substantially responsive bidder, followed by other bidders in ascending order of their evaluation results.

(5) The lowest evaluated substantially responsive bidder must be allocated 50 percent of the total estimated value of the procurement under a specific framework agreement, while the remaining 50 percent must be allocated equally among the other selected bidders within the framework agreement, subject to the provisions of subregulation (2).

### **Closed framework agreement with mini-competition**

6. (1) The Board or a public entity may enter into a closed framework agreement with no less than three bidders who obtained the highest scores in technical and qualification evaluation, in terms of which the Board or public entity must conduct a mini-competition between framework agreement bidders if the Board or public entity is not able to determine the following terms and conditions, during stage one bidding –

- (a) quality;
- (b) price;
- (c) lead time; or
- (d) availability of the goods, works or non-consultancy services.

(2) The Board or a public entity may use a closed framework agreement with mini-competition only if it is necessary to achieve value for money and the object of that procurement, provided there is sufficient market intelligence that points out to the need to allow such competition at stage two of the framework agreement process.

#### **Duration of framework agreement**

7. (1) The Board or public entity may enter into a framework agreement for a period of not less than one year and no more than three years.

(2) The Board or a public entity must, in setting the period of a framework agreement, strike a balance between long and short duration risks by considering the –

- (a) nature of the goods, works and non-consultancy services required;
- (b) cost and benefits of the duration of the agreement; and
- (c) market and economic conditions relevant to evaluate risks associated with the period of the framework agreement.

### **PART 2**

#### **STAGE ONE OF FRAMEWORK AGREEMENT**

#### **Bidding procedure for stage one of framework agreement**

8. (1) This procedure applies to framework agreements referred to in regulation 4.

(2) For purposes of section 38A of the Act, a public entity must incorporate framework agreement procurement needs into the annual procurement plan in line with section 25(4)(a) of the Act read with regulation 8(2)(d) of the Public Procurement Regulations.

(3) The Board or a public entity must, as contemplated in section 38A(2) of the Act, invite bidders for inclusion in the framework agreement through the open advertised bidding method.

(4) The Board or public entity must specify in its invitation to bid –

- (a) the name of the public entity;
- (b) the procurement reference number;
- (c) the description of the procurement;
- (d) the deadline for submission of bids which must be for a period not less than 10 days;
- (e) the place and manner for submission of bids;
- (f) that Board or the public entity intends to establish a framework agreement;
- (g) the number of bidders which may not be less than three bidders;
- (h) the duration of the framework agreement which must be for a period of not less than one year and not exceeding three years;
- (i) the application of the Code of Good Practice where applicable; and

- (j) any other information as may be considered relevant.
- (5) The public entity must conduct a procurement process for a framework agreement for procurement within the thresholds specified in Annexure 1 of the Public Procurement Regulations.
- (6) Subject to section 8 and section 38A(1)(c) of the Act, the Board must conduct the procurement process on behalf of the public entities for all procurements beyond their respective thresholds.
- (7) Where the Board or a public entity makes use of framework agreement, the Board or public entity must note in the record of the procurement proceedings the –
  - (a) reasons and circumstance on which it relied to justify the use of the framework agreement; and
  - (b) type of framework agreement used.
- (8) Subject to section 52 of the Act, after conducting the procedures set out in this regulation, the Board or a public entity must select responsive bidders to enter into the framework agreement.
- (9) Despite section 38A(3) of the Act, after conducting the procedures set out in this regulation and if less than the required minimum of three bidders submit lowest substantially responsive bids for a framework agreement in regulation 5, the Board or public entity may enter into a framework agreement with those bidders for a period not exceeding two years to allow the public entity to undertake and finalise a new procurement process.
- (10) The Board or public entity must ensure that a framework agreement clearly states the procedure for allocation of framework contracts.
- (11) The Board or public entity may provide estimates of the quantities which may be required during the given period of time but may not make a commitment to purchase the goods, works or non-consultancy services estimated when establishing a framework agreement as the procurement of the goods, works or non-consultancy services must be based on the actual demand.
- (12) The Board or a public entity must provide clarification related to the bidding process in accordance with regulation 34 of the Public Procurement Regulations.
- (13) Subject to section 55(4A), (4B), (4C) and (4D) of the Act, on selection of the responsive bidders in terms of subregulation (8), an accounting officer or the Chairperson of the Board must enter into a framework agreement with successful bidders.

#### **Standard bidding document for framework agreement**

- 9.** (1) The Board or public entity must use the standard bidding document issued by the Policy Unit.
- (2) The Board or public entity must specify the following in the bidding document –
    - (a) the number of bidders required to conclude a framework agreement which may not be less than three bidders;
    - (b) the duration of the framework agreement which may not exceed three years;
    - (c) the specifications of the goods, works or non-consultancy services to be procured;

- (d) an estimate of the total volume, scope of goods, works or non-consultancy services, or quantity of purchases expected to be made for the duration of the framework agreement;
- (e) the qualifications required to perform the framework contract;
- (f) the methodology and criteria to be used in the evaluation of bids and the determination of –
  - (i) lowest substantially responsive bids under a closed framework agreement without competition among bidders that meet the technical specifications and qualification evaluation criteria; or
  - (ii) substantially responsive bids under a closed framework agreement with mini-competition based on the highest scores in technical and qualification evaluation; and
- (g) any other information as may be considered relevant.

### PART 3

#### TERMS AND CONDITIONS OF FRAMEWORK AGREEMENT

##### **Terms and conditions of framework agreement**

**10.** (1) A framework agreement to be entered into between the Board or public entity and successful bidders must be in the form substantially corresponding to a form determined by the Policy Unit.

- (2) A framework agreement must include terms and conditions –
  - (a) stating that the framework agreement and subsequent framework contracts are governed and construed in accordance with the laws of Namibia;
  - (b) relating to termination of a framework agreement;
  - (c) relating to intellectual property rights;
  - (d) outlining the terms of payment;
  - (e) stating that assignment and subcontracting will not be allowed without prior written consent of the Board or public entity;
  - (f) outlining the obligations of the parties;
  - (g) stating how a bidder may withdraw or may be withdrawn from a framework agreement;
  - (h) outlining the dispute resolution in relation to a framework agreement;
  - (i) stating the duration of the framework agreement;
  - (j) specifying the contract price in respect of closed framework agreement without competition;
  - (k) on how a framework contract will be awarded under the framework agreement;

- (l) relating to additions or changes to the framework agreement terms and conditions;
- (m) relating to price adjustments due to economic factors in accordance with regulation 41 of the Public Procurement Regulations; and
- (n) any other terms and conditions considered necessary.

#### PART 4 PROCEDURE FOR STAGE TWO OF FRAMEWORK AGREEMENT

##### **Eligibility for award of framework contract**

**11.** (1) The Board or public entity must select from successful bidders referred to in regulation 8(8), the bidder to supply the goods, works or non-consultancy services as and when the need arises within the period of the framework agreement.

(2) The Board or public entity must follow the provisions of the framework agreement to award framework contracts.

##### **Procedure for closed framework agreement without competition**

**12.** (1) In respect of a closed framework agreement without competition, the Board or public entity must award a share equal to 50 percent of the estimated total value of the procurement to the lowest responsive bidder.

(2) The Board or public entity must award the remaining 50 percent of the estimated total value of the procurement to the other bidders within the framework agreement in equal shares, at the price offered by the lowest responsive bidder in accordance with the list as per the framework agreement.

(3) The Board or public entity must confirm that the bidder to be awarded a call-off contract continues to be qualified and eligible in accordance with a framework agreement prior to the awarding of the contract.

(4) The Board or public entity may not change or re-define the ranking order during call-off unless a bidder to the framework agreement is unable to perform.

(5) Where a bidder who is next on the list for any reason is unable to perform, the Board or public entity must award the contract to the next bidder on the list subject to its applicable share.

(6) A bidder who was skipped on the list due to inability to perform must be given another chance to perform only after all other bidders within that framework agreement have been given their chances, and if such bidder is still unable to perform, must be withdrawn from the framework agreement and its share must be allocated to other bidders in accordance with the provision of subregulation (7).

(7) Where the last ranked bidder on the list is unable to perform, the Board or public entity must allocate that portion of the contract equally among the other bidders in accordance with the ranking order under the framework agreement, provided that where it is impractical to divide the contract, the entire portion must be awarded to the first ranked bidder.

(8) The terms and conditions of the framework agreement that were agreed with the framework bidders may not be amended without the consent of all the parties if consent is not unreasonably withheld considering the scope of the proposed amendment.

(9) Where a bidder unreasonably withholds consent to an amendment of a framework agreement, such bidder may withdraw from the framework agreement or be withdrawn by the Board or a public entity.

**Procedure for closed framework agreement with mini-competition amongst framework agreement suppliers**

**13.** (1) In respect of a closed framework agreement with mini-competition, the Board or public entity must, for each procurement, conduct a mini-competition between the bidders in the framework agreement using the request for sealed quotations method regardless of the threshold for request for quotation referred to in Annexure 2 of the Public Procurement Regulations.

(2) The period for submission of bids, examination and evaluation of bids conducted in a mini-competition is done in accordance with regulations 7 and 35 of the Public Procurement Regulations.

(3) The terms and conditions of the framework agreement that were agreed with the framework bidders may not be amended without the consent of all parties.

(4) Where a bidder to the framework agreement for any justifiable reason is unable to participate in the mini-competition or perform, and as a result, the number of framework suppliers falls below the minimum number of framework bidders, the public entity must proceed and obtain quotations from the remaining framework bidders.

(5) Where the Board or public entity does not receive a minimum of three quotations for three consecutive call-offs, the Board or a public entity must terminate the framework agreement and conclude a new framework agreement in terms of these regulations.

(6) Where a bidder engages in price fixing the Board or public entity must disqualify such bidder from the framework agreement and apply for suspension or debarment in terms of section 68 of the Act.

**Awarding of contracts under framework agreement**

**14.** (1) In respect of a closed framework agreement with mini-competition, the awarding of the procurement contract is subject to section 55(4A), (4B), (4C), and (4D) of the Act.

(2) In respect of closed framework agreement without competition, the awarding of framework contracts in terms of regulation 12, the Board or public entity must on a call-off basis, issue a purchase order.

(3) In respect of a closed framework agreement with mini-competition, the Board or the public entity must select the lowest priced quotation from the quotations received for award of the contract, subject to the price being considered as fair and reasonable taking into consideration value for money.

(4) Subject to regulation 3(4), after a mini-competition process, if the Board or public entity determines that the prices are not fair and reasonable, the Board or public entity must procure from suppliers outside the framework agreement in accordance with section 27 of the Act.

(5) Where all framework bidders for three consecutive times are submitting bids that are not fair and reasonable or are unable to perform, the Board or a public entity must terminate the framework agreement and start the process afresh.

(6) Where bidders withdraw from the framework agreement without competition and the number of bidders reduces to less than the minimum number of three bidders in the framework agreement, the Board or public entity may continue with the remaining bidders until the duration of the framework agreement comes to an end.

(7) All awards for procurement contracts under the framework agreements are subject to the provision of section 50(2) of the Act.

### CHAPTER 3 POOLED PROCUREMENT

#### PART 1 CONDITIONS FOR USE OF POOLED PROCUREMENT

##### **Conditions for use of pooled procurement with other public entities in Namibia**

**15.** (1) In addition to section 38B(3), a public entity may use pooled procurement to jointly procure goods or works with other public entities in Namibia through the Board, if –

- (a) the goods or works to be procured are the same in its specifications and there are economies of scale; and
- (b) goods cannot be procured through Government Stores.

(2) When public entities are jointly procuring goods or works, the Board must, regardless of the threshold, conduct the bidding process and enter into the procurement contracts with bidders and the procuring public entities.

##### **Conditions for use of pooled procurement with entities outside Namibia**

**16.** (1) A public entity may participate in pooled procurement in line with section 38B(1)(b)(i) of the Act with a public entity in another country if there is, in that other country a –

- (a) public procurement legal framework that allows that public entity to engage in procurement with public entities from another country; and
- (b) public financial management legal framework that allows financial transactions between that public entity's country and Namibia.

(2) A public entity may conduct pooled procurement with a public entity in another country provided that the public entity has appropriate treasury authorisation in terms of the State Finance Act or appropriate authorisation from its governing body and a clear financial risk management plan in place to safeguard risks associated with –

- (a) advance payments;
- (b) the absence of performance guarantees; and
- (c) foreign currency exchange losses.

##### **Conditions for use of pooled procurement with a foreign state, a regional or an international organisation**

**17.** A public entity may conduct pooled procurement with a foreign state, a regional or an international organisation provided that the public entity has a clear financial risk management plan in place to safeguard risks associated with –

- (a) advance payments;
- (b) the absence of performance guarantees; and
- (c) foreign currency exchange losses.

#### **Conditions for use of pooled procurement from a regional or international organisation**

**18.** (1) When a public entity is procuring from a regional or international organisation in terms of section 38B(1)(c) of the Act, the public entity must conduct its own procurement process, irrespective of the thresholds.

(2) A public entity may conduct pooled procurement from a regional or an international organisation provided that –

- (a) where advance payment is required, the public entity must obtain Treasury authorisation in terms of the State Finance Act or authorisation from its governing body, as appropriate;
- (b) the public entity must have a financial risk management plan in place to safeguard risks associated with advance payments; and
- (c) the pooled procurement agreement is approved by the Attorney-General.

### **PART 2**

#### **POOLED PROCUREMENT PLANNING**

##### **Planning for pooled procurement by public entities**

**19.** For purposes of section 38B (1) a public entity must –

- (a) incorporate pooled procurement needs into the annual procurement plan in line with section 25(4)(a) of the Act read with regulation 8(2)(d) of the Public Procurement Regulations; and
- (b) identify and consult the –
  - (i) public entity;
  - (ii) entity in another country;
  - (iii) foreign state; or
  - (iv) regional or international organisation,

that it wishes to procure with or from, through pooled procurement.

##### **Pooled procurement of goods or works between public entities in Namibia**

**20.** The Board may procure goods or works in common use by more than one public entity through pooled procurement using –

- (a) any of the applicable procurement methods; or
- (b) framework agreements in terms of these regulations.

**Pooled procurement of goods or works between public entities in Namibia and entities in another country or with foreign state, regional or international organisation**

**21.** (1) Where a procurement exceeds the prescribed threshold of a public entity, the Board may procure goods or works jointly with procuring entities in another country or with a foreign state, regional or international organisation using –

- (a) any of the applicable procurement methods; or
- (b) framework agreements in terms of these regulations,

in accordance with the legal framework of the respective countries, regional or international organisations.

(2) Where a public entity or the Board and a public entity in another country, foreign state, regional or international organisation agree on the procurement method, framework agreement or rules and procedures not consistent with the Act, the Board or public entity must obtain exemption from the Minister in terms of section 4(2) of the Act.

**Pooled procurement of goods from a regional or international organisation**

**22.** A public entity, when procuring from a regional or international organisation, may use the direct procurement method provided that the procurement process leads to value for money.

**Bidding document for pooled procurement**

**23.** In addition to the requirements of regulation 33 of the Public Procurement Regulations, the bidding document for pooled procurement in terms of section 38B(1)(a) must state –

- (a) the names of all the public entities participating in the procurement process;
- (b) the duration of the pooled procurement contract which may not exceed three years;
- (c) whether it is a fixed contract or is through a framework agreement;
- (d) the lots into which the contract will be awarded;
- (e) the duties and obligations of the parties to the pooled procurement contract; and
- (f) any other information considered relevant.

**PART 3****PROCEDURES FOR POOLED PROCUREMENT****Procedure for pooled procurement with another public entity in Namibia**

**24.** (1) For purposes of section 38B(4) of the Act the Board may invite public entities wishing to procure goods or works listed in terms of section 7(1)(n) of the Act through pooled procurement to make submissions of the quantities of their procurement needs together with an approved annual procurement plan and certification of availability of funds to the Board within the first three months of the financial year.

(2) Despite subregulation (1) public entities intending to make use of pooled procurement in terms of section 38B(1)(a) of the Act, may on their own accord, submit a joint procurement requisition to the Board.

(3) For the purposes of subregulation (2), the public entities must submit a joint procurement requisition to the Board together with –

- (a) the proposed pooled procurement agreement between entities in terms of section 38B(7)(a) of the Act;
- (b) the bidding document;
- (c) certificate of availability of funds from each public entity;
- (d) individual procurement plan; and
- (e) any other information considered relevant.

**Procedure for pooled procurement with an entity in another country, foreign state, regional or international organisation**

**25.** (1) Where the values of the procurement are within the threshold of the public entity as per Annexure 1 of the Public Procurement Regulations, a public entity, after having identified and consulted with an entity in another country, a foreign state, regional or international organisation, the public entity must –

- (a) prepare the procurement requisition;
- (b) if an advance payment is required, obtain Treasury authorisation in terms of the State Finance Act or authorisation from its governing body; and
- (c) conclude a pooled procurement agreement.

(2) Where the value of the procurement is above the applicable threshold, the public entity must submit a procurement requisition to the Board together with –

- (a) the pooled procurement agreement containing the details of the planned joint procurement;
- (b) the certificate of availability of funds;
- (c) proof of Treasury authorisation in terms of the State Finance Act or appropriate authorisation from its governing body if advance payment is applicable, for the Board to conclude the pooled procurement agreement and to procure on behalf of the public entity; and
- (d) any other information considered relevant.

(3) The Board or a public entity, when conducting pooled procurement in terms of section 38B(1)(b) with public entities from another country, a foreign state, regional or international organisation may do so by means of joint procurement, or through a procuring agent as per the pooled procurement agreement.

**Procedure for pooled procurement from regional or international organisations**

**26.** Prior to signing a pooled procurement agreement, a public entity must prepare the procurement requisition and obtain Treasury authorisation in terms of the State Finance Act or appropriate authorisation from its governing body if advance payment is applicable, relating to the procurement from the regional or international organisation.

**Handling of pooled procurement submissions by Board for pooled procurement with another public entity in Namibia**

27. (1) At the end of the three months referred to in subregulation 24(1) the Board must consolidate the submissions for pooled procurement received.

(2) Subject to section 38B(7)(a), the Board and the procuring public entities must enter into a pooled procurement agreement specifying their obligations in addition to those stipulated in the Act and the procurement method.

(3) The Board must invite bidders as per the procurement method agreed on in the pooled procurement agreement as per Part 5 of the Act.

(4) The Board must conduct the bidding process and award the pooled procurement contract to the successful bidder as per section 55 of the Act.

(5) Subject to section 55 of the Act, the Board must sign the pooled procurement contract with the public entities involved and the successful bidder.

**Handling of pooled procurement submissions by Board for pooled procurement with entity in another country, foreign state, regional or international organisation**

28. (1) On receiving the submission referred to in regulation 25(2) to procure on behalf of a public entity with a public entity in another country, foreign state, regional or international organisation in terms of section 38B(1)(b), the Board, in consultation with the public entity, must engage the public entity in another country, foreign state, regional or international organisation and enter into a pooled procurement agreement in terms of section 38B(7) of the Act.

(2) The Board or a public entity when conducting pooled procurement in terms of section 38B(1)(b)(ii) may conduct the bidding process through –

- (a) the internal organisational structures of the Board or public entity;
- (b) a regional or international organisation; or
- (c) an agent, and

the Board or a public entity, agent or regional or international organisation must enter into a procurement contract with a supplier.

PART 4  
POOLED PROCUREMENT AGREEMENT

**Content of the pooled procurement agreement**

29. A pooled procurement agreement referred to in section 38B(7) of the Act must include provisions relating to the –

- (a) procurement method to be used;
- (b) procurement process and procedure;
- (c) evaluation of the bids;
- (d) awarding of the contract;

- (e) types of goods and works to be procured;
  - (f) estimated price;
  - (g) price and non-price benefits which the parties will gain in this procurement;
  - (h) duties and responsibilities of the contract manager;
  - (i) duties and responsibilities of the parties;
  - (j) governing law and the jurisdiction of the agreement;
  - (k) currency to be used in the procurement contract;
  - (l) terms and conditions that the parties agreed to for the procurement contract of the goods and works to be procured;
  - (m) delivery of the goods and works;
  - (n) termination of the agreement;
  - (o) breach of the agreement;
  - (p) dispute resolution mechanism;
  - (q) duration of the contract which should not exceed three years in total, including an initial term and possible extensions;
  - (r) procurement of an agent where applicable; and
  - (s) other matters which the parties consider necessary.
-