PUBLIC PROCUREMENT REGULATORY AUTHORITY



DEBARMENT GUIDELINES

As approved by the Board through Circular Resolution No.11 Dated 12th April, 2016

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PART ONE

1.0 PRELIMINARY PROVISIONS

These guidelines may be cited as Debarment Guidelines issued under the Public procurement Act, (CAP 410).

These Guidelines shall apply in handling debarment of tenderers or individuals from participating in public procurement in mainland Tanzania.

"BRELA" means an executive agency established under the Executive Agencies Act Cap 245 responsible for business administration and regulation of the laws; namely Companies Registration, Business Names Registration, Trade and Service Marks Registration, granting of Patents and issuing of Industrial License. "Corrupt, Collusive, Coercive, Obstructive and Fraudulent Practices" shall have the meanings respectively ascribed to them by the Public Procurement Act.

"Debarment process" means a procedure under which a company, firm or an individual is prohibited to participate in public procurement for a specific reason within a specified period.

"Debarment proposal means a proposal submitted by a procuring entity or any person for debarment of a tenderer or an individual from participating in public procurement in a format prescribed in the First Schedule to these Guidelines.

"Tanzania Procurement Journal" means a journal established under CAP 410 for publication of procurement information including tender opportunities and awards information.

"Website" means PPRA's website

PART TWO

2.0 OBJECTIVES OF DEBARMENT

The objectives of debarment process are:

- (a) To deter tenderers and individuals from committing corrupt, collusive, coercive, obstructive and fraudulent practices as well as making false representations;
- (b) To punish tenderers and individuals for committing corrupt, collusive, coercive, obstructive and fraudulent acts, making false representations and for breaching procurement contracts;

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- (c) To ensure tenderers comply with bids securing declarations.
- (d) To ensure tenderers comply with the Public Procurement Act and its Regulations and observe code of ethics and conduct for participating in public procurement.

3.0 CIRCUMSTANCES WHICH SHALL WARRANT INITIATION OF DEBARMENT PROCESS

The following circumstances shall warrant initiation of a debarment process against a tenderer or an individual:

- (a) Where after appropriate investigation, audit or determination by a court of law that a tenderer or an individual is found to have engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during procurement process, award of contract or execution of a procurement contract;
- (b) Where a tenderer fails to abide with bid securing declaration;
- (c) Where a procuring entity terminates a procurement contract with a tenderer or an individual for breach of the contract;
- (d) Where a tenderer or an individual makes false representation about his qualification during tendering proceeding;
- (e) Where a tenderer or an individual has been blacklisted and barred by a foreign country, international organization or other foreign institutions.
- (f) On any other grounds as may deemed fit by the Authority.

4.0 WHO SHOULD INITIATE A DEBARMENT PROCEEDING

A debarment proceeding shall be initiated by the Authority upon satisfying itself with grounds for debarment of a tenderer or an individual with sufficient supporting evidences.

5.0 WHO SHOULD PROPOSE DEBARMENT OF A TENDERER/INDIVIDUAL

- 5.1 The Authority may on its own volition decide to debar a tenderer or an individual from participating in public procurement when it receives information leading to debarment.
- 5.2 A procuring entity or any person/body with sufficient information/evidence to support debarment of a tenderer or an individual may submit to the Authority a debarment proposal.

6.0 CONDITIONS FOR SUBMISSION OF DEBARMENT PROPOSAL

- A procuring entity or any person/body submitting a debarment proposal must comply with the following conditions:
 - (a) A proposal shall be submitted within twenty eight days of becoming aware of the circumstances or grounds which may warrant debarment.
 - (b) The Authority may grant leave for submission out of time provided that the time does not exceed fourteen days from the date of submission of the application.
- 6.2 A debarment proposal may also include a recommendation that a tenderer or an individual be suspended from participating in public procurement pending determination of debarment proposal.

7.0 WHAT SHOULD BE DONE BY THE AUTHORITY UPON RECEIPT OF A DEBARMENT PROPOSAL

Upon receipt of a debarment proposal, the Authority shall take the following actions:

- (a) Review the proposal for debarment to determine if grounds for debarment are sufficient to make decision or otherwise.
- (b) Where on the basis of submitted evidences the Authority finds that there are sufficient grounds for debarment, it shall, within twenty one days of receiving the proposal, serve the respective tenderer or an individual a notice of intention to debar him.
- (c) Where no sufficient evidence is submitted, the Authority shall within three (3) working days of receiving a proposal for debarment, require a procuring entity or a person who has submitted the proposal or any public body or person to submit additional evidences or information to support the proposal within fourteen days of receipt of the Authority's instructions.
- (d) Upon satisfying itself with additional information/evidences submitted, the Authority shall within twenty one days of receiving the evidences, serve the respective tenderer or an individual a notice of intention to debar him.

- (e) A notice of intention to debar a tenderer or person shall contain such information as prescribed in **Second Schedule** to these guidelines.
- (f) Where after review of the debarment proposal and all information and evidences to support the same the Authority finds that the grounds for debarment are not supported by enough evidences or are frivolous, the Authority shall reject the proposal and notify the one who submitted the proposal of such rejection within thirty days from the date of receiving all supporting evidences.

8.0 CHECKLISTS TO SUPPORT DEBARMENT DECISION

The following documents and or information shall be checklists for the Authority in determining debarment decision:

- (a) Approved investigation report;
- (b) Approved audit report
- (c) Court order/decree;
- (d) Sufficient evidence/grounds for breach of contract which led to termination of contract;
- (e) Sufficient information on debarment of a tenderer by a foreign country or international organizations or other foreign institutions;
- (f) Any other certified information or report with sufficient evidence to support the given grounds for debarment provided for under Section 3 of these Guidelines.

9.0 WHEN A NOTICE OF DEBARMENT SHALL BE SAID TO HAVE REACHED A TENDERER OR AN INDIVIDUAL

- 9.1 A notice of debarment is said to have reached a tenderer or an individual when it is duly served to tenderer or an individual.
- 9.2 Where such tenderer is a registered company, notice shall be served to its principal officer pursuant to the Companies Act, Cap 212 or any other officer authorized to receive documents.
- 9.3 Where such tenderer is a business name notice shall be served to proprietor pursuant to Business Names (Registration) Act, Cap 213 or any other officer authorized to receive documents.
- 9.4 A Tenderer or an individual is duly served with a notice of debarment:

- (a) When he acknowledges receipt of service by signing, stamping and inscribing the date of receipt on a copy of notice;
- (b) When a notice is published in the Tanzania Procurement Journal and PPRA website or in any newspaper of wider circulation; or
- (c) Where a notice is affixed on the outer door or some other conspicuous part of the house in which the tenderer or an individual ordinarily resides or carries on business or personally works for gain. This shall apply where after using all due and reasonable means, a tenderer or an individual cannot be found for service of notice and there is neither an agent nor a person empowered to accept the service of the notice on his behalf.

Provided that the circumstances which led the Authority to do so shall be written on the affixed copy and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

10.0 WHAT SHOULD BE DONE BY A TENDERER OR AN INDIVIDUAL WHO HAS BEEN SERVED WITH A NOTICE OF INTENTION TO DEBAR

A tenderer or an individual who has been served with a notice of intention to debar shall take the following action:

- (a) Submit to the Authority an objection or written representations showing cause as to why he should not be debarred from participating in public procurement.
- (b) The objection or written representations shall contain details of directors, shareholding and subsidiaries of the company that a debarment proposal is made.
- (c) The objection or representations shall be submitted to the Authority within fourteen days from the date of receiving the notice.
- (d) The tenderer or individual shall certify that any representations made by him are true to the best of his knowledge.

11.0 DETERMINATION OF SUSPENSION PENDING DEBARMENT DECISION

11.1 The Authority may on its own volition or upon receiving a debarment proposal with a recommendation for suspension of a tenderer or individual, determine whether a tenderer should be suspended from participating in public procurement pending the debarment decision.

- 11.2 A tenderer or an individual shall be suspended where-:
 - (a) On the face of records, there are overwhelming chances of debarment proposal to succeed;
 - (b) Allowing a tenderer or an individual to continue participating in public procurement would defeat the process of determination of the debarment proposal against him;
 - (c) Circumstance dictates that the suspension of the tenderer is inevitable
- 11.3 PPRA shall notify the tenderer or individual of his suspension within five working days after making the decision and a copy of the notification thereof shall be sent to the procuring entity or a person who submitted the debarment proposal.
- 11.4 The duration of suspension shall be determined by the Authority or shall cease on the date the debarment decision is made.
- 11.5 The Authority may terminate the suspension if it considers that the grounds for suspension are no longer valid.

12.0 DEBARMENT DECISION

- 12.1 Where objection or written representations from a tenderer or individual is made in accordance with clause 11 of these Guidelines, the Authority shall within five working days of receiving the same, make verification with BRELA or any appropriate authority on the authenticity of information provided by the tenderer or individual.
- 12.2 BRELA or the appropriate authority whom the verification have been sought shall submit to the Authority the verification report on the authenticity of information provided by the tenderer or individual within **seven days** from the date of receiving the Authority's request."
- 12.3 Upon receipt of the verification report and where it is determined that there are sufficient grounds for debarment, the Authority shall make decision on the proposed debarment within thirty days:-
 - 12.3.1 from the date of receiving the representation from the tenderer
 - 12.3.2 from the date of the decision for suspension where the suspension is justifiable

- 12.3.3 From the date of the decision for suspension where no verification is needed from BRELA or appropriate authority or
- 12.3.4 After expiry of the period of notice of debarment where no objection has been made by the tenderer or individual.
- 12.3.5 Debarment decision shall contain a summary of findings of facts and reasons thereof and the same shall be communicated to the tenderer as soon as practicable after the decision is made.

PART THREE

13.0 TENDERER OR INDIVIDUAL DECLARED INELIGIBLE BY A FOREIGN COUNTRY, INTERNATIONAL ORGANIZATION AND FOREIGN INSTITUTIONS

- **13.1**A tenderer who has been blacklisted and barred from taking part in procurement by a foreign country, international organization or other foreign institutions is automatically debarred to participate in public procurement in Tanzania.
- **13.2**No notice of intention to debar shall be served on a tenderer or an individual who has been declared ineligible under the circumstances explained in clause 13.1 above since this is an automatic debarment.
- 13.3Where the Authority is satisfied that there are sufficient information and evidences to support the debarment, it shall within thirty days of receiving the evidences, make a debarment decision against the tenderer or an individual.
- **13.4**Debarment decision shall contain a summary of findings of facts and reasons thereof and the same shall be communicated to the tenderer as soon as practicable after the decision is made

PART FOUR

14.0MISCELLANEOUS PROVISIONS

- **14.1**The debarment period shall be as prescribed under the Public Procurement Act and its Regulations.
- **14.2** The Authority shall notify procuring entities and any other person with legitimate interest on the procurement in question, of the debarment decision.
- **14.3**The Authority shall share with BRELA information on suspended, debarred and blacklisted companies, firms and individuals for its appropriate action.
- **14.4**The Authority shall publish the debarment decision in the Tanzania Procurement Journal and its Website and maintain a list of all suspended, debarred and blacklisted tenderers and individuals in a register.
- **14.5**The Authority shall review and update the register containing the list of suspended, debarred and blacklisted tenderers and individuals on quarterly basis or immediately after the debarment period has expired or lifted, whichever comes first.
- **14.6**The sources which the Authority may use to update the register shall include but not limited to websites of public procurement regulatory bodies in Africa, multilateral development banks and international development organizations

PUBLIC PROCUREMENT REGULATO	DRY AUTHORITY
DEBARMENT PROPOSAL SUBMI	SSION FORM
(Made pursuant to Regulation 94(1&3) of GN No; 446 of 201	3
Name and Code No of Procuring Entity	
Contract No.	
Tender / Contract description	
Tender / Contract amount (TZS)	
Tender stage / Contract duration	
Date of contract signing	
Full Name and Address (physical and postal) of the firm recommended for debarment	
PART A - DETAILS OF GROUNDS FOR DEBARMENT PRO	OPOSAL
Explain in brief grounds for proposed debarment	
Indicate the date of your becoming aware of the circumstances or grounds which have given rise to the debarment proposal.	
Describe in brief how you became aware of circumstance or grounds which gave rise to debarment proposal.	
Indicate if suspension of a tenderer or individual from participating in public procurement is preferred, pending determination of debarment proposal.	
Note: The recommendation for suspension shall be supported with justifiable grounds.	
Attachments with the proposal	As per the appendix to this form attach the appropriate documents and evidences to support the debarment proposal.
Prepared By: Name	

Note; Pursuant to Regulation 94(1) of GN No; 446 this recommendation shall be submitted to the Authority within twenty eight days from the date of becoming aware of the circumstances or grounds which give rise to the debarment

APPENDIX

LISTS OF EVIDENCES TO BE SUBMITTED WITH THE DEBARMENT PROPOSAL (Select as appropriate)

When Procuring entities submitting proposals to PPRA, a procuring entity or a person shall submit the following documents and information to support the proposal:

- If the grounds for debarment are based on fraud, corrupt, collusive, coercive or obstructive practices against a tenderer or an individual, the procuring entity shall submit to the Authority any of the following supporting documents;
 - a) Judgment /decree of a court of law;
 - b) An approved audit report of the Controller and Auditor-General;
 - c) An approved procurement or value for money audit report of PPRA;
 - d) A copy of investigation report from PPRA, PCCB or procuring entity;
 - e) All correspondences made with the tender relating to the issue in question; and
 - f) Any other relevant document and information which assist the Authority in making appropriate decision on the debarment proposal.
- 2. If grounds for debarment are based on failure to abide with a bid securing declaration, the procuring entity shall submit to the Authority the following supporting documents and /or information:
 - a) A certified copy of respective tender document;
 - b) A certified copy of the bid submitted by the tenderer;
 - c) A copy of evaluation report;
 - Decision of the Tender Board that discussed the breach and approve the proposal for debarment;
 - e) All correspondences made with the tenderer relating to the issue in question;
 - f) Any other document and or information on the subject matter in issue.

- 3. If grounds for debarment are based on termination of contract due to breach, the procuring entity shall submit to the Authority the following supporting documents depending on the type of the contract:
 - a) A copy of the contract entered into between the procuring entity and the tenderer;
 - b) A goods inspection report;
 - c) Site inspection report and works progress report;
 - d) Payment claims by the contractor;
 - e) Payment details and evidence of the amount paid to the tenderer;
 - f) Notice of intention to terminate the contract;
 - g) Notice of termination of the contract;
 - h) Works measurement at the time of termination of contract.
 - i) Evidence of all extensions granted to the contractor,
 - j) All instructions issued to the contractor,
 - k) Work program submitted by the contractor,
 - I) Warning letters issued to the contractor, supplier or service provider,
 - m) Evaluation report of all outstanding works after termination and due amount to both parties,
 - n) All correspondences made with the tender relating to the issue in question; and
 - o) Any other document which the procurement entity found it relevant.
- 4. If grounds for debarment are based on the false representation by a tenderer about his qualification during tendering proceeding, the procuring entity shall submit to the Authority any of the following supporting documents:
 - a) Approved tender document issued to tenderers who participated in the tender;
 - b) A bid submitted by the tenderer containing false representation of his qualification;
 - c) Minutes of tender opening;
 - d) A copy of the evaluation report;
 - e) A copy of the minutes of the Tender Board that discussed and approved the evaluation report;
 - f) All correspondences made with the tenderer relating to the issue in question; and
 - g) Any other document which the procurement entity found it relevant.

MAMLAKA YA UDHIBITI WA UNUNUZI WA UMMA

UMMA	
FOMU YA KUWASILISHA PENDEKEZO LA KUFUNG	IWA KWA MZABUNI / KAMPUNI
(Imetolewa chini ya Kanuni ya 94(1&3) ya Tangazo	o la Serikali Na 446 la 2013)
Jina na namba ya Taasisi Nunuzi	
Namba ya Mkataba	
Maelezo ya Zabuni / Mkataba	
Kiasi cha Zabuni/Mkataba (TZS)	
Hatua ya Zabuni / Muda wa Mkataba	
Tarehe ya kusainiwa mkataba	
Jina kamili, anwani na mahali (physical na posta) ya kampuni inayopendekezwa kufungiwa.	
SEHEMU A – MAELEZO YA KINA YA SABABU ZA I	PENDEKEZO LA KUFUNGIWA
Maelezo kwa ufupi juu ya sababu za pendekezo la kufungiwa mzabuni	
Onyesha tarehe uliyofahamu mazingira na sababu zilizopelekea kupendekeza kifungo.	
Elezea kwa kifupi jinsi ulivyofahamu kuwepo kwa sababu zinazopelekea pendekezo la kifungo	
Onyesha endapo unataka mzabuni / kampuni isimamishwe kushiriki kwenye michakato ya zabuni wakati ombi lako la kufungiwa mzabuni likishugulikiwa	
Kumbuka: Pendekezo la kusimamishwa lazima liwe na sababu za msingi.	
Viambatisho vya Pendekezo	Kama ilivyo kwenye kiambatanisho wasilisha kwa PPRA vielelezo vya pendekezo la kufungiwa mzabuni
Imeandaliwa na: Jina	Tarehe

Kumbuka; kwa mujibu wa Kanuni 94(1) ya Tangazo la Serikali Na. 446 mapendekezo haya yanapaswa kuwasilishwa PPRA ndani ya siku ishirini na nane (28) kuanzia tarehe ya kufahamu mazingira au sababu zitakazopelekea kufungiwa.

KIAMBATANISHO

ORODHA YA VIAMBATISHO VYA USHAHIDI VINAVYOTAKIWA KUWASILISHWA SAMBAMBA NA MAOMBI YA PENDEKEZO LA KUMFUNGIA MZABUNI (Chagua kuendana na uhitaji)

Taasisi Nunuzi au mtu binafsi anapowasilisha maombi ya kumfungia mzabuni kwa Mamlaka ya Kudhibiti Ununuzi wa Umma (PPRA), atalazimika kuwasilisha nyaraka zifuatazo ili kukazia maombi yake:

- 5. Endapo maombi ya kufungia mzabuni yanaletwa kwa sababu za ulaghai, rushwa, kula njama, taasisi nunuzi itawasilisha PPRA nyaraka zifuatazo;
 - g) Hukumu/Amri ya Mahakama;
 - h) Ripoti iliyopitishwa/iliyoidhinishwa na Mdhibiti na Mkaguzi Mkuu wa Serikali;
 - i) Ripoti ya Ukaguzi wa ununuzi iliyopitishwa na PPRA;
 - j) Nakala ya ripoti ya Uchunguzi kutoka PPRA, PCCB au Taasisi Nunuzi;
 - Mawasiliano yote yaliyofanyika kati ya taasisi na mzabuni kuhusiana na jambo linalohusika;na
 - Nyaraka nyingine au taarifa ambazo zinaweza kuisaidia PPRA katika kutoa maamuzi sahihi kwenye maombi husika.
- 6. Endapo maombi ya kumfungia mzabuni ni kwa sababu ya kushindwa kutimiza kiapo cha dhamana ya zabuni, Taasisi Nunuzi itatakiwa kuwasilisha PPRA nyaraka zifuatazo:
 - g) Nakala ya nyaraka za zabuni,
 - h) Zabuni iliyowasilishwa na mzabuni;
 - i) Nakala ya ripoti ya tathmini ya zabuni;
 - j) Maamuzi ya Bodi ya Zabuni ambayo ilijadili ukiukwaji na kupitisha maombi ya kumfungia mzabuni:
 - k) Mawasiliano yote yaliyofanyika kati ya taasisi na mzabuni kuhusiana na jambo linalohusika; na
 - Nyaraka nyingine au taarifa inayohusiana na sababu hii.
- 7. Endapo maombi ya kumfungia mzabuni ni kwa sababu ya uvunjwaji wa mkataba, Taasisi Nunuzi itatakiwa kuwasilisha kwenye Mamlaka nyaraka zifuatazo :
 - p) Nakala ya Mkataba ulioingiwa kati ya Taasisi Nunuzi na mkandarasi/mtoa huduma;

- q) Ripoti ya Ukaguzi wa bidhaa kabla ya bidhaa kupokelewa,
- r) Ripoti ya ukaguzi wa kazi na ripoti ya maendeleo ya kazi; (work progress reports)
- s) Madai ya malipo kutoka kwa mkandarasi/mtoa huduma,
- t) Ushahidi wa malipo yaliyofanyika kwa mkandarasi au mtoa huduma,
- u) Notisi ya kusudio la kusitisha mkataba;
- v) Notisi ya kusitisha mkataba;
- w) Taarifa ya kiwango cha kazi (works measurement) iliyofanyika hadi mkataba unasitishwa,
- x) Ushahidi wa idhini ya kuongezwa kwa muda wa mkataba,
- y) Maelekezo yote yaliyotolewa kwa mkandarasi/mtoa huduma,
- z) Mpango kazi uliowasilishwa kwa mkandarasi,
- aa) Barua za onyo zilizotolewa kwa mkandarasi/mtoa huduma,
- bb) Taarifa ya tathmini ya kazi zote ambazo hazikufanyika baada ya kuvunjwa kwa mkataba na malipo yanayostahili kwa pande zote,
- cc) Mawasiliano yote yaliyofanyika kuhusiana na jambo linalohusika,
- dd) Nyaraka nyingine au taarifa inayohusiana na sababu hii.
- 8. Endapo maombi ya kumfungia mzabuni ni kwa sababu za utoaji taarifa za uongo uliofanywa na mzabuni katika mchakato wa zabuni kuhusu sifa zake, Taasisi Nunuzi itatakiwa kuwasilisha kwa PPRA nyaraka zifuatazo:
 - h) Nyaraka za zabuni iliyoidhinishwa na kutolewa kwa wazabuni walioshiriki katika zabuni;
 - Zabuni iliyowasilishwa na mzabuni iliyokutwa na taarifa za uongo kuhus u sifa zake;
 - j) Muhtasari wa kikao cha ufunguzi wa zabuni;
 - k) Nakala ya ripoti ya tathmini ya zabuni;
 - Nakala ya muhtasari wa kikao cha bodi ya zabuni kilichoidhinisha ripoti ya tathmini ya zabuni;
 - m) Mawasiliano yote yaliyofanyika kati ya taasisi na mzabuni kuhusiana na jambo linalohusika; na
 - n) Nyaraka nyingine yoyote itakayoonekana inafaa.

SECOND SCHEDULE NOTICE OF INTENTION TO DEBAR TENDERER



	Form no
	TICE OF INTENTION TO DEBAR A TENDERER OR AN INDIVIDUAL FROM TICIPATING IN PUBLIC PROCUREMENT
1.	(Made under S. 62 of PPA, 2011, Reg. 96(1) of GN. 446 of 2013) The Authority has received a letter with ref. No
	that
	Through the audit carried out by PPRA/NAOT at

Or

Through the	investigation	conducted b	by PPRA/PCC	B/procuring	g entity a	ıt	
	(Insert the	PE name)	in the tender/c	ontract no.		. (Inse	ert the
contract/tender	no.), it has bee	n established	d that your firm	n	(mention the	? name	of the
firm) has	(ment	ion the omissi	on/commission).	Therefore P	PRA inten	ds to	debar
	(insert name	of the firm	or individual)	from par	rticipating	in j	public
procurement	for a period of.		(specified the	period) from	to		

- 2. By this notice you are required to make your objection or written representations to the Authority showing reasons why you should not be debarred from participating in public procurement.
- 3. Your written representations should be made to PPRA within fourteen (14) days from the date of receiving this notice.
- 4. Take notice that failure to respond to this notice within the time stated herein shall be considered that you don't have objection on the notice of debarment and grounds for debarment.
- 5. Your written representations shall provide a brief description on the ownership of the company and shall indicate the names of all directors and shareholders of the company as well as its subsidiaries. You should also attach a copy of the Memorandum and Articles of Association of the company.
- 6. Your written representation to PPRA should contain a statement at the end indicating that, what is stated in your written representation is true to the best of your knowledge.
- 7. The representation shall be signed by the tenderer or individual before a Commissioner for Oaths (an advocate or a magistrate).
- 8. In case you fail to submit your objection or representations within the prescribed time, please apply for making your objection or written representations out of time upon payment of fee of TZS 250,000 (Two Fifty Thousand shillings only).

representations out of time, you shall submit the same within the approval was granted.	fourteen days	from the
Issued by:		

Chief Executive Officer PUBLIC PROCUREMENT REGULATORY AUTHORITY

Once the Authority grants leave for submission of your objection or

date

Received by:
Name:
Title:
Signature:
Official Stamp

9.