



**AUDIT ST HELENA**  
External Auditors

**Performance Audit Report:  
Procurement of the Sea  
Freight Service Contractor**

September 2019

*Audit St Helena is the body that carries out financial and performance audits of St Helena Government on behalf of the Chief Auditor.*

*The Chief Auditor is a statutory position required by the Constitution of St Helena (Section 110). The Chief Auditor's responsibilities are set out in the Constitution and the Public Finance Ordinance. Section 29(2) of the Ordinance requires the conduct of performance audits on behalf of the Legislative Council to determine whether resources have been used with proper regard to economy, efficiency and effectiveness.*

*This report has been prepared in accordance with section 29(2) and published by the Chief Auditor, Phil Sharman. The Audit team consisted of Helena Loechen and Anesu Makamure, with assistance from David Brown and Damian Burns.*

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## INTRODUCTION

### BACKGROUND

In 2014, with the impending retirement of the RMS St Helena (RMS), the St Helena Government (SHG) identified a need for a sea freight service to ensure the island could receive regular provisions such as food, construction materials, agricultural equipment and personal goods. It commissioned for the provision of this service through an open tender to procure a suitable provider. It began the process within the framework of SHG's procurement regulations. Ultimately Andrew Weir Shipping Management Ltd was announced as the preferred bidder and the contract was signed on 19 February 2016, with the sea freight service due to commence in June 2016. The MV Helena arrived on its first voyage on 7 March 2018.

The procurement of goods or services by SHG must follow all applicable regulations not only to reduce the risk of non-compliance, but also to ensure value for money is achieved during the procurement. This report outlines the results of our evaluation of the sea freight service procurement process.

The identified applicable procurement regulations are prepared under section 5 of the Public Finance Ordinance 2010. However, SHG's procurement regulations have not been issued with the appropriate legal notices and therefore do not have statutory effect as subsidiary legislation. In the absence of any statutory authority, the procurement regulations are in effect guidance.

The Public Accounts Committee (PAC) is a Select Committee of the Legislative Council. In accordance with section 69 of the St Helena Constitution and Order 23, the primary function of the Committee is to objectively scrutinise how the government spends public funds. The PAC and other stakeholders expressed an interest in the procurement process leading to SHG entering into a contract for a sea freight service upon the retirement of the RMS.

### OBJECTIVES

The objective of the audit was to assess the effective functioning of the processes in place in the procurement cycle in relation to this specific procurement exercise, and to evaluate if the objectives were achieved with the outcome of the procurement exercise. The overall aim was to determine that value for money<sup>1</sup> and propriety<sup>2</sup> has been achieved in procuring the sea freight service for St Helena. The review does not examine the economic impact of moving from the subsidised RMS to a commercial freight service – that is a policy matter for Government and accordingly is outside of the scope of the audit.

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<sup>1</sup> Procurement Regulations definition for Value for Money: Is not the lowest possible price; it combines goods or services that fully meet your needs, with the levels of quality required, delivery at the time you need it, and at an appropriate price.

<sup>2</sup> Propriety audit definition: concerns the decisions of the executives, with an emphasis on public interest, financial discipline, and satisfaction that such decisions are within the frame-work of sanction, authority, rule, procedure and law made by a competent body.

## SCOPE

This summary report:

- Assesses whether the procurement was undertaken in accordance with the applicable procurement regulations;
- Identifies what the procurement was set to achieve as per the tender specifications, and assesses whether this was achieved with the final outcome of the procurement process;
- Verifies that, with regard to the appropriate quality and delivery of service, the available least cost alternative was selected; and
- Recommends areas of improvement to SHG.

## METHODOLOGY

Our audit followed both a system and results based approach. We assessed whether the applicable procurement regulations were followed, and further evaluated whether pre-defined objectives have been achieved as intended. We applied the following methods:

- **Documentary review:** We obtained and inspected the applicable procurement regulations, alongside the received procurement documentation for the procurement in question. This gave us historical information to help determine the procurement process.
- **Enquiry of management:** We made appropriate enquiries of SHG officials for clarity whenever required. This was done through email exchanges, interviews and meetings.

## SEA FREIGHT SERVICE PROCUREMENT

In 2014, with the construction of the airport on St Helena coming to a close the RMS St Helena was nearing its retirement, as per the agreement signed when the airport project commenced. The RMS had been in service for 25 years and was responsible for carrying both passengers and cargo (frozen food, dry goods, fruits, motor vehicles, construction material etc). The new air service would be unable to handle the volumes of bulk cargo the island needs, so SHG decided to contract a ship that would be moving cargo to St Helena from Cape Town.

SHG was looking to identify appropriate solutions to supply the island's ocean freight needs on a fully commercial, non-subsidised basis from mid-2016. The requirement fell broadly into two separate categories:

1. A ship operator to provide a vessel to transport goods to St Helena.
2. A freight consolidator to undertake the booking and transshipment arrangements.

Whilst the procurement envisaged these being provided as a package by a commercial entity, SHG was willing to consider these being awarded as two separate contracts if it proved to be cost effective. A working group was set up which included public officials, business people with interests in mercantile and tourism, and shipping technical experts to develop specifications that would best suit the island. Suitably qualified and experienced organisations were requested to initially express an interest in providing either or both of the services. This request was advertised locally and internationally to attract as many bidders as possible and

derive the best value from the contract. 11 entities formally expressed an interest, and 10 submitted the prequalification questionnaire (PQQ).

After a three step process that included a PQQ stage, Invitation to Tender (ITT) stage, and Best and Final Offers (BAFO) stage, the Procurement Board approved the appointment of Andrew Weir Shipping Management Ltd (AWSML) as the preferred bidder. SHG representatives signed a contract on 19 February 2016 with a commencement date of June 2016 for a non-subsidised service to run every 5 weeks from Cape Town to St Helena with a bi-monthly call on Ascension. The contract was for an initial duration of 5 years, with a possible extension to a maximum of 10 years in service the island. The cargo ship was named MV Helena and its first voyage arrived on 7 March 2018.

## **PUBLIC SECTOR PROCUREMENT**

### **THE GOAL OF PUBLIC PROCUREMENT**

The goal of public procurement is to award timely and cost-effective contracts to qualified contractors, suppliers and service providers for the provision of goods, work and services to support government and public services operations, in accordance with principles and procedures established in the public procurement rules.

### **STAKEHOLDERS OF PUBLIC PROCUREMENT**

Stakeholders are those who stand to benefit from the results of public procurement, including those interested in the process and who might be affected, directly or indirectly, by a particular procurement action.

### **BENEFICIARIES OF PUBLIC PROCUREMENT**

All inhabitants of a country are beneficiaries of the public procurement system through public goods and services available and provided in the form of transportation systems, public utilities, educational systems, and medical services and facilities, among others.

### **PROCUREMENT LEGAL FRAMEWORK**

Public procurement is governed by the procurement legal framework, which is a law or regulation (or part of a law or regulation) that is sanctioned by the judicial system of a particular country. This sets the rules for the management of public procurement.

The procurement legal framework is usually further developed into policies and procedures, procurement and contract administration manuals and guidelines, including standard solicitation documents that are used to call for offers from contractors, suppliers and service providers.

The procurement legal and institutional frameworks (procurement rules) govern everything from the identification of a requirement through to the closing out of a contract, sometimes including disposal, reutilization and destruction of goods.

### **PROCUREMENT BOARD**

A procurement board is an entity created by law to oversee the public procurement process and to ensure that all public procurement activities are carried out in accordance with the public procurement rules.

### **BASIC PRINCIPLES OF PUBLIC PROCUREMENT**

Public procurement principles are the foundation of public procurement and should be addressed in public procurement rules. They govern the management of public procurement, and also set the framework for a code of conduct for public procurement practitioners and all other officials directly or indirectly associated with the public procurement process.

A procurement practitioner must have a clear understanding of public procurement principles, and know how to apply them to guide their day-to-day decision-making process. By integrating these principles into their work ethic, the outcome of their decisions will always be in line with the goal of public procurement.

Public procurement practitioners are also public servants. They manage public funds, are bound by an ethical code of conduct, and are accountable for what they do, or fail to do, when managing those funds.

The fundamental principles of public procurement<sup>3</sup> are:

- Transparency,
- Integrity,
- Economy,
- Openness,
- Fairness,
- Competition and
- Accountability

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<sup>3</sup> See <https://leanpub.com/procurement-principles-categories-and-methods/read#leanpub-auto-chapter-2-basic-principles-of-public-procurement>.



## SUMMARY

### APPLICABLE PROCUREMENT REGULATIONS

The Procurement Regulations are supplementary to the Financial Regulations, and as per section 5 of the Public Finance Ordinance 2010 are required to be issued, with the approval of the Governor, by the Financial Secretary and laid before Legislative Council. The regulations are expected to be part of the financial control framework provided for managing the Government's financial affairs. They have however not been issued with legal notices, and do not have statutory effect, and as such are not considered subsidiary legislation<sup>4</sup>. Despite the non-statutory nature of the procurement regulations, they are the guidelines by which SHG conduct procurements, and are the standard against which this audit has measured compliance.

No evidence was identified that could determine the date on which the individual procurement regulations were approved by the Governor and hence came into effect. The normal practice on legislative documents issued by SHG is that the date printed on the documents is the commencement date.

The Procurement Board approved commencement of the procurement of sea freight service in May 2014, and the contract with the successful bidder was signed on 19 February 2016. Accordingly the compliance assessment was based on the following applicable versions of the procurement regulations:

- SHG Procurement Regulations July 2013 revised 10 February 2014 and
- SHG Procurement Regulations V1.3 November 2015 (11 November 2015)

### RECOMMENDATIONS

1. *SHG must ensure that procurement regulations prepared under the Public Finance Ordinance are duly issued under Legal Notice such that they will have statutory authority as subsidiary legislation rather than merely guidance.*
2. *SHG must assess any other regulations issued under the Public Finance Ordinance 2010, such as the Financial Regulations, and ensure that they have been procedurally enacted as subsidiary legislation.*

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<sup>4</sup> Interpretation Ordinance 1968: "subsidiary legislation" means any proclamation, rule, regulation, order, notice, by-law, or other instrument made under the authority of any Ordinance or other lawful authority and having legislative effect.

## PROCUREMENT PROCESS

**Figure 1** gives an overview of the procurement process that applied to the appointment of the sea freight service contractor.

**FIGURE 1. SEA FREIGHT SERVICE PROCUREMENT PROCESS**

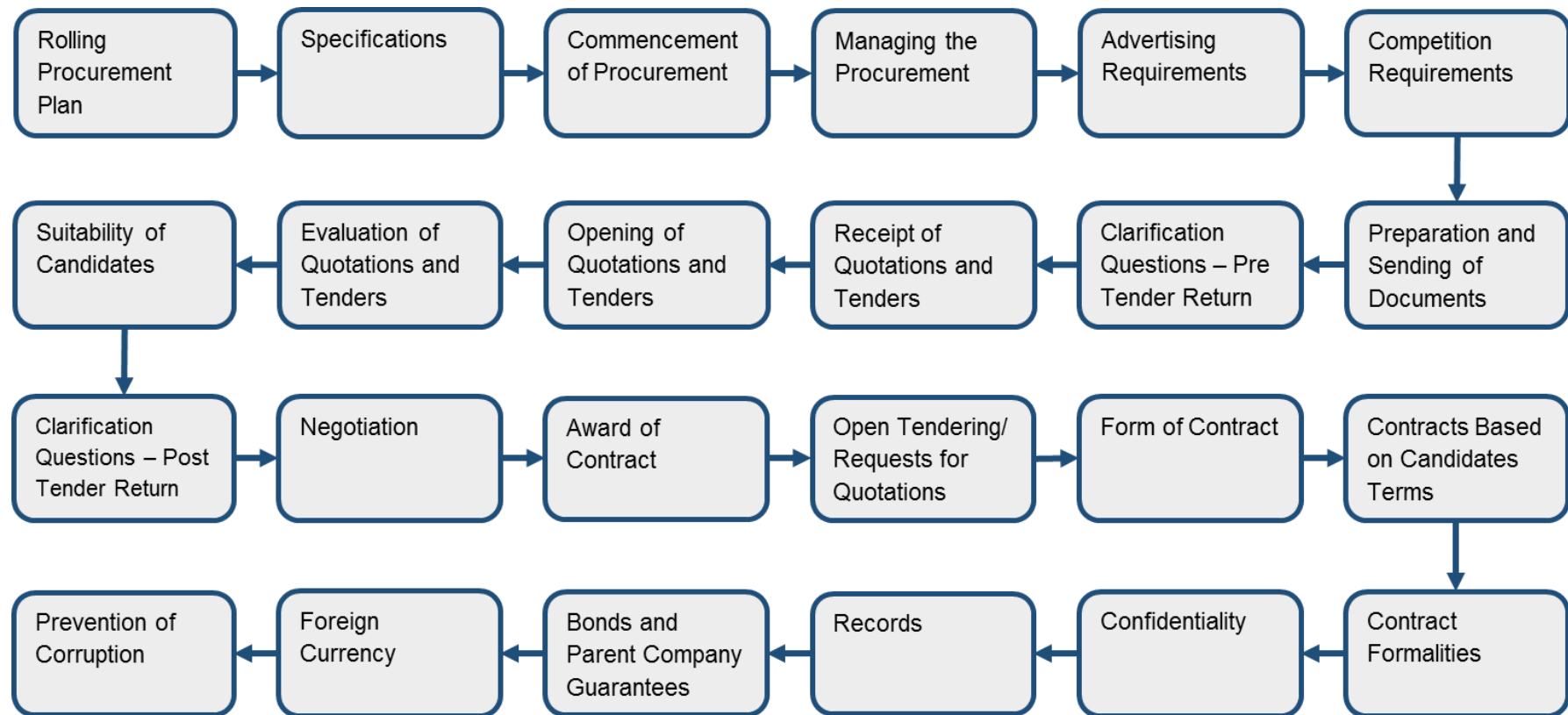
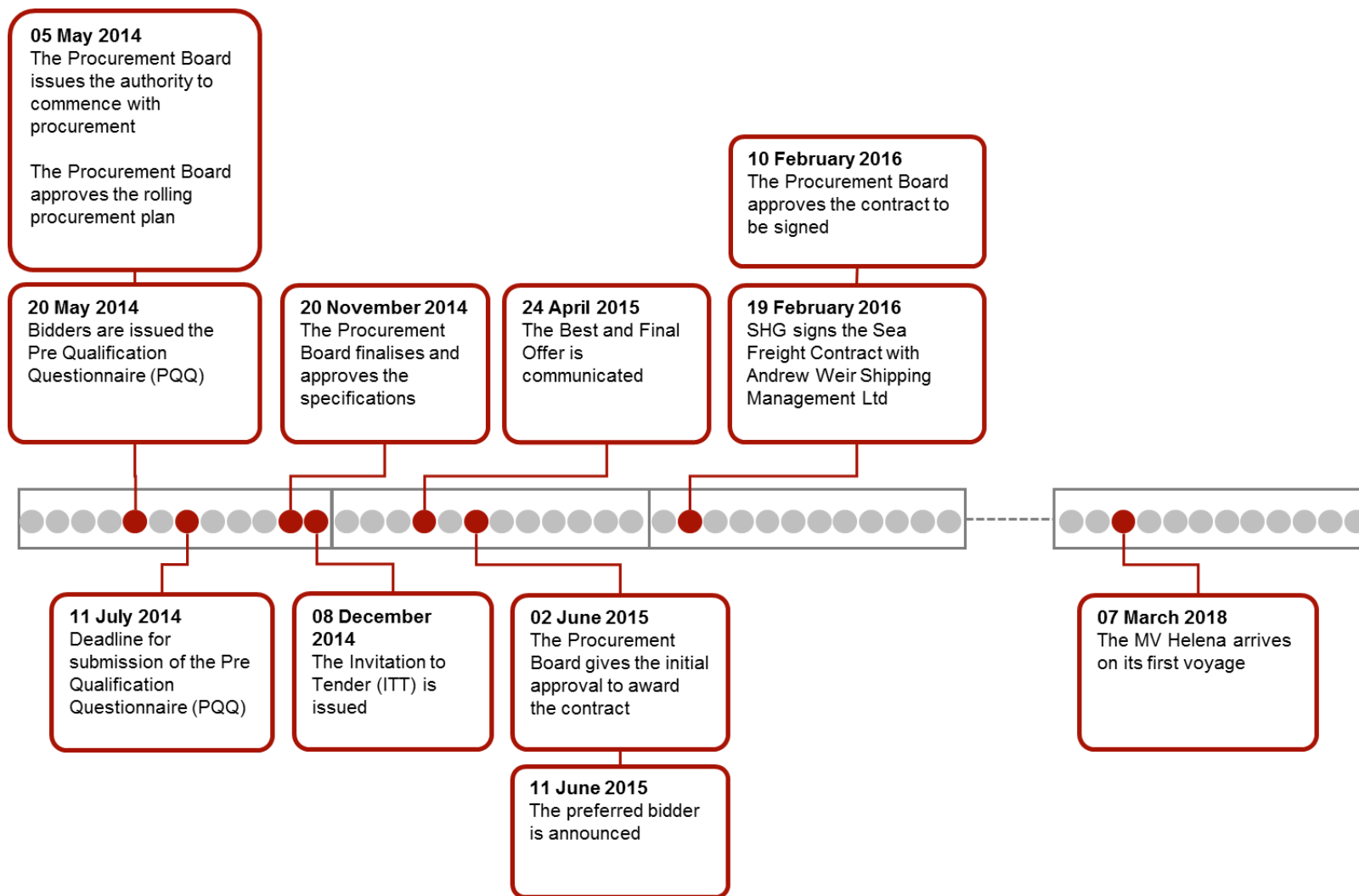


Figure 2 presents the dates major milestones were reached in the procurement process.

FIGURE 2. SEA FREIGHT SERVICE PROCUREMENT PROCESS MILESTONES



## RECOMMENDATIONS

St Helena Government should develop the opportunities to improve value for money through better procurement arrangements including:

3. *SHG risk register must be updated with procurement being designated a high risk and controls put in place to manage non-compliances relating to procurement.*
4. *Procurement regulations and guidelines must be (1) regularly reviewed and (2) updated to be more specific in order to lower the risk of non-compliance by project teams. Templates approved by the Procurement Board must be directly referenced in the regulations and mandatorily completed and retained.*
5. *SHG must ensure third parties or any other non SHG employees assisting in preparation of specification and tender documents sign the Declaration of Interest/Confidentiality form.*
6. *Procurements must always adhere to processes outlined in the tender documentation sent out to comply with the principle of transparency, even if it is over and above the procurement regulations.*
7. *SHG should introduce to the procurement regulations a standstill period before a contract is signed, in which the rejected bidders have been informed of their reasons for rejection and can make an informed decision whether to appeal the decision or not.*
8. *SHG should consider developing additional checklists and/or templates to ensure fulfilment of the documentation requirements and verifiability for the actual execution of the procurement according to the regulations.*
9. *To enhance the procurement process in being SMART, SHG must develop a probity checklist that is utilised as a self-assurance tool within the procurement unit.*
10. *SHG must strengthen the record keeping system for mandatory information to be kept as per the procurement regulations.*
11. *SHG must update Procurement Regulations Part 8: Definitions to reduce ambiguity and strengthen the overall regulations.*

## CONCLUSION

Due to the retirement of the RMS from St Helena service, SHG identified a need for a sea freight service by a suitable contractor as a procurement objective. To achieve this objective, SHG were guided by the process set out in procurement regulations until a preferred contractor was appointed. SHG's procurement regulations ensure that value for money is obtained in the purchase of service within a framework of good purchasing practice and public accountability.

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### EFFECTIVENESS

SHG was successful in appointing a service provider, AWSML, to provide the island with sea freight service by following the applicable procurement regulations. During our testing we confirmed that the procurement process was applied consistently to all bidders and did not identify any instances where any bidder was given unfair advantage over the others.

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### ECONOMY

By performing its procurement process, SHG was able to appoint the most economical bidder based on price after assessments at the Pre-Qualification Questionnaire, Invitation to Tender and Best and Final Offer stages had been performed.

Unlike the passenger freight service provided by the RMS St Helena, the new sea freight service is a commercial service operated without public subsidy. As a consequence it is not surprising that freight rates under the new shipping service are higher and more volatile than in the past. The question as to whether to subsidise freight rates in addition to the new air service is a policy matter and is therefore out of scope of this performance audit.

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### EFFICIENCY

We have identified areas of improvement during our testing and have made recommendations throughout the report that management can implement to improve the procurement regulations as well as the efficiency of the process.

## CLOSING REMARKS

This summary performance audit report has been prepared in pursuance of the Chief Auditor's responsibilities under section 111(1)(a) of the Constitution of St Helena and section 29(2)(a) of the Public Finance Ordinance.

The matters included in the report came to our attention during the conduct of the performance audit procedures. The nature and scope of the procedures are as per the engagement letter and it does not constitute an audit of the financial records in accordance with International Standards on Auditing.

Phil Sharman  
Chief Auditor for St Helena

20 September 2019

## RECOMMENDATIONS SUMMARY

This summarises the recommendations raised in the performance audit report.

No	Recommendation
1	SHG must ensure that procurement regulations prepared under the Public Finance Ordinance are duly issued under Legal Notice such that they will have statutory authority as subsidiary legislation rather than merely guidance.
2	SHG must assess any other regulations issued under the Public Finance Ordinance 2010, such as the Financial Regulations, and ensure that they have been procedurally enacted as subsidiary legislation.
3	SHG's risk register must be updated with procurement being designated a high risk and controls put in place to manage non-compliances relating to procurement.
4	Procurement regulations and guidelines must be (1) regularly reviewed and (2) updated to be more specific in order to lower the risk of non-compliance by project teams. Templates approved by the Procurement Board must be directly referenced in the regulations and mandatorily completed and retained.
5	SHG must ensure third parties or any other non SHG employees assisting in preparation of specification and tender documents sign the Declaration of Interest/Confidentiality form.
6	Procurements must always adhere to processes outlined in the tender documentation sent out to comply with the principle of transparency, even if it is over and above the procurement regulations.
7	SHG should introduce to the procurement regulations a standstill period before a contract is signed, in which the rejected bidders have been informed of their reasons for rejection and can make an informed decision whether to appeal the decision or not.
8	SHG should consider developing additional checklists and/or templates to ensure fulfilment of the documentation requirements and verifiability for the actual execution of the procurement according to the regulations.
9	To enhance the procurement process in being SMART, SHG must develop a probity checklist that is utilised as a self-assurance tool within the procurement unit.
10	SHG must strengthen the record keeping system for mandatory information to be kept as per the procurement regulations.
11	SHG must update Procurement Regulations Part 8: Definitions to reduce ambiguity and strengthen the overall regulations.