1 POLICY

1.1 Purpose

(1) To establish rules and guidelines for the engagement and contracting of successful applicants under the Evaluations Policy and Procedures.

(2) This policy is part of a set of policies and procedures that deal collectively with the procurement of goods, services and capital works and the award of grants. A diagram illustrating this framework is provided in clause 3.3.

1.2 Scope

(1) This policy applies to the engagement of:
   (a) successful applicants under the Procurement and Tendering Policy and Procedures, and Evaluations Policy and Procedures; and
   (b) successful applicants under the Grants Policy and Procedures, Evaluations Policy and Procedures, and Sub-Delegations Policy and Procedures.

(2) This policy does not extend to the engagement of permanent or temporary staff.

(3) Unless permitted otherwise by written approval of the Secretary General, all staff must abide by this policy.

1.3 Definition

In this policy, the following phrase has the following meaning:

"successful applicants" means collectively all consultants, suppliers, contractors and grant applicants who have been selected and approved to be engaged by the Secretariat
under the Evaluations Policy and Procedures. It does not include permanent or temporary staff.

1.4 Statements

(1) This policy applies to the negotiation and engagement of a successful applicant once approval has been given under the Evaluations Policy and Procedures.

(2) The negotiation and engagement processes must only be initiated with the prior approval of the successful applicant.

(3) The engagement and contracting processes directly relate to the Secretariat’s management, monitoring and disbursement of funds for a proposed action.

(4) The engagement and contracting processes involves staff negotiating with successful applicants on issues that may relate to the proposed fees or financial contribution, scope of work, milestone dates and timeframes, and obligations and responsibilities of respective parties.

(5) Staff must ensure that the intended scope of action or terms of reference are clearly reflected in the engagement contract.

1.5 Negotiation

(1) Staff must not enter into negotiations to increase fees and fix costs already determined as part of the approval process stipulated under the Grants Policy and Procedures, Tendering and Procurement Policy and Procedures, and the Evaluation Policy and Procedures except in exceptional circumstances.

(2) In considering exceptional circumstances under sub-clause (1), the following criteria must be used:
   (a) whether the proposed increase remains lower or parallel to that provided by the second preferred applicant in the procurement or grant award process and the successful applicant has provided a well justified argument for the increase;
   (b) whether the increase is due to a change in law;
   (c) whether the successful applicant has a monopoly of the market; or
   (d) whether the proposed action is an emergency.

(3) Staff must enter contractual negotiations in ‘good faith’ to reach an agreement that is mutually beneficial for both the Secretariat and the parties.

(4) Negotiations on specific issues must depend on the nature of the issue.

(5) However, staff must be guided by the following benchmarks:
   (a) for direct and emergency consultancies:
(i) a professional fee of USD500 per day worked plus expenses is the upper limit for negotiations;
(ii) any higher fee may be considered in terms of the caliber of the consultant and the prevailing market rate so long as the consultant had provided well justified arguments for the fee rate and it is well documented and approved through the relevant approval process;
(iii) the schedule of payment to the consultant must be based on delivery of set milestones, with a minimum of 30% of the consultant's fee on acceptance of the final report;

(b) for goods and capital works:
(i) the proposed payment must reflect the accepted market costs for the goods or capital works;
(ii) the schedule of payment must be based on delivery of set milestones, with a minimum of 20% to be paid at the completion/delivery of the final product;
(iii) for specific building or construction work, a minimum retainer of at least 5% must only be paid at the completion of the retainer period (normally 6 months);

(c) for grants:
(i) the total value of the grant can be negotiated if it is identified that there are cost savings in the applicant’s proposed budget;
(ii) however, if the total value of the grant must be paid for whatever reason, staff must identify other activities or actions to be undertaken by the successful applicant as part of the work plan;
(iii) the proposed administrative fee or indirect costs to be charged by successful applicants must be no more than 12% unless otherwise approved by the Secretary General;
(iv) actions that extend beyond 6 months must be paid in installments.

(6) Except for Senior Management, only the Team Leader Properties or Team Leader IT may enter into contractual negotiations for goods and capital works over FJD5,000.

(7) Contractual negotiations must not deviate from the specifics of the approved terms of reference or scope of work and timeframe.

(8) Staff must seek the approval of their immediate supervisors before agreeing to any significant deviation.

(9) Staff must ensure that a satisfactory monitoring and reporting mechanism is discussed and agreed to with the successful applicant.

1.6 Contracting
(1) Staff must consult the Corporate Legal Officer regarding the use of any specific legal template to ensure that the correct contracting arrangement is used and to ensure they understand a legal template before commencing with specific contractual negotiations with the successful applicant.

(2) Depending on the nature of the action, the contract must take the form of the following:
   (a) for a consultancy: the Secretariat’s standard consultancy contract template that is stored electronically in the ‘templates folder’ in the common ‘M’ drive and on the Secretariat’s intranet;
   (b) for capital works: the Secretariat’s standard works contract template that is stored electronically in the ‘templates folder’ in the common ‘M’ drive and on the Secretariat’s intranet;
   (c) for the award of a grant:
      (i) the Secretariat’s standard contribution agreement template or letter of exchange; and
      (ii) if required, an overarching Memorandum of Understanding or Partnership Arrangement.

(3) Notwithstanding sub-clause (2), where it is not feasible for the Secretariat to use its own templates depending on the requirements of the successful applicant, staff must seek advice from the Corporate Legal Officer.

(4) Staff must not make any amendments to the general terms and conditions in the standardised templates unless they have consulted the Corporate Legal Officer.

(5) The schedules of the standardised templates must be amended to reflect the terms negotiated with the successful applicant.

(6) Staff must consult the Corporate Legal Officer during the early stages of the negotiation phase. The final draft contract must be cleared through the Corporate Legal Officer and staff must allow reasonable time for the review of the contract.

(7) Memorandum of Understanding must also be cleared through the International Legal Adviser.

1.7 Administration

(1) On signing of a contract, the contract must be registered with the Finance Unit. For this purpose, a contract registration form at Annex 1 must be completed and forwarded to the Finance Unit.

(2) The Finance Unit must raise the purchase order on the Secretariat’s accounting system to record the commitment incurred. This is required to process the payments in sub-clause (3) below.
(3) When payments are required to be made, an interim payment certificate at Annex 2 must be completed and forwarded to Finance Unit.

(4) The final report must be reviewed internally by appropriate technically competent staff and submitted to Senior Management for approval.

(5) Once this approval is made, the final milestone payment must be made.

1.8 Information management

Staff must ensure that all relevant information produced under this policy is submitted to the Information Management Unit for filing.

2 PROCEDURES

(1) These procedures summarise the entire process as reflected in the Procurement and Tendering Policy and Procedures, Grants Policy and Procedures and the Evaluations Policy and Procedures:

(a) develop the terms of reference;
(b) carry out risk assessment of the contract;
(c) determine the evaluation method to be used: Procurement and Tendering Policy and Procedures for goods, services and capital goods; or Grants Policy and Procedures for the award of grants;
(d) identify evaluators;
(e) establish eligibility and evaluation criteria;
(f) seek initial management approval to undertake the action;
(g) complete screening and evaluation process: Evaluations Policy and Procedures;
(h) request management approval for awarding the contract to the recommended applicant;
(i) notify all applicants of the results of the evaluation outcome;
(j) negotiate and execute contract with successful applicant after internal legal clearance;
(k) complete contract registration form at Annex 1, attach to the form the signed contract, and forward to Finance Unit;
(l) monitor and manage interim payments by raising an interim payment certificate at Annex 2;
(m) review and seek approval of the final report and arrange for the final payment to be made.

3 MISCELLANEOUS

3.1 Further information

For further information, please contact the Corporate Legal Officer.
3.2 Related policies and procedures

Secretariat’s Code of Conduct and Values
Delegations Policy and Procedures
Evaluations Policy and Procedures
Grants Policy and Procedures
Procurement and Tendering Policy and Procedures
Sub-Delegations Policy and Procedures
Finance Manual (for specific procedures related to the Finance Unit)

3.3 Procurement and Grants Framework

This diagram illustrates the set of policies and procedures that collectively make up the Secretariat’s procurement and grant framework.
3.4 Document history

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<th>Date</th>
<th>Description of changes</th>
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<td>August 2014</td>
<td>New draft. This policy replaces the Consultancy Policy.</td>
<td>Corporate Legal Officer</td>
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CONTRACT REGISTRATION FORM

BUDGET CODE

CONTRACT DETAILS
Title
PIFS Signature Date / / 
Start Date / / 
End Date / / 

CONTRACTOR DETAILS
Name
Nationality

FINANCIAL DETAILS

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CONTRACT TOTAL

Project Manager: ____________________________

Signature: ____________________________ Date: ____________________________

Attachments: Signed Contract (Copy)

FINANCE USE

Contract Ref

PO Ref
Annex 2

INTERIM PAYMENT CERTIFICATE No: ____________

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CONTRACTOR DETAILS

Name
Nationality
Contract End Date / /

PAYMENT DETAILS

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PARTICULARS


DETAILS OF WORK PERFORMED IN FIJI


FINANCIAL DETAILS

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APPROVED FOR PAYMENT:

Signature: ___________________ Date: ___________________