



REPUBLIC OF BOTSWANA

THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA IN THE MINISTRY OF
INFRASTRUCTURE AND HOUSING DEVELOPMENT

GUIDELINES
FOR
ENGAGEMENT OF CONSULTANTS
ON
THE DIRECT ALLOCATION SYSTEM (DAS)
BY
THE PROJECTS ALLOCATION COMMITTEE (PAC)

2019 EDITION

(To be reviewed every 3 years or as may be deemed necessary by PAC)

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Glossary

The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely;

Accounting Officer	An officer and/or a duly deputed person, holding the position of Permanent Secretary in any government ministry, including Heads of Independent Departments
Citizen	A natural person who is a national of the Republic of Botswana
Citizen Company	<p>A juristic person (including a company, a partnership and a trust) in which one or more Citizens are a shareholder or have an interest</p> <p><i>Wholly owned (100%)</i> A citizen company or partnership whose entire issued share capital, equity, or interest is held or owned by one or more citizens</p>
Construction Works	The provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure
Consultant	A firm or company, which has been appointed by the Procuring Entity (PE) to undertake an assignment for the provision of professional services
Discipline	The branch of professional services associated with construction works, such as Architectural, Quantity Surveying, Civil and Structural, Electrical, or Mechanical Engineering
Firm/Company/Practice/Consultant	A business entity providing professional services associated with construction works. For consistency, the entity shall herein be referred to as “consultant”

Multi-Disciplinary Practice/ Firm/Consultant/Company	A consultant registered or wishing to register with the Project Allocation Committee to offer professional services in more than one discipline as defined above
Office	The office nominated by a consultant with multiple offices to be regarded as its main operational office with full rights of occupation
PPAD Act	The Public Procurement and Assets Disposal Act, 2001 (Act No. 10 of 2001)
PPADB	Public Procurement and Assets Disposal Board established in terms of section 10 of the PPAD Act, and where applicable any committee of the Board
PPADB Regulations	Any regulations promulgated in terms of the PPAD Act
Practising Principal	A full-time person in a consultancy/company who is a partner in a partnership, a sole proprietor, a director in a company established in terms of the Companies Act, or a member of a close corporation registered in terms of the Close Corporation Act, who is providing professional advice or service in a discipline associated with construction works and is involved in the day to day running of the company/consultancy
Practicing Professional	A full-time professional employee of a consultancy/company, other than a Principal, who is currently properly employed by a company in a discipline associated with construction works, who is providing professional advice or service in a discipline associated with construction works
Procuring Entity (PE)	Government ministries, departments and private/public entities including parastatals who get funding from Government and are fully mandated to undertake projects on behalf of the Government

Project	Some identified construction works which a procuring entity wishes to undertake and thereby assign consultants identified through the Roster or Direct Appointment System to assist in providing the services up to completion
Resident Professional	A full-time professional who is resident in Botswana in the premises of the designated office for the purposes of providing professional services in any of the disciplines as defined above
Roster	The list of consultants who are registered with the PAC for purposes of offering professional services associated with construction works under the Direct Allocation System (DAS)
Services	The provision of professional consultancy services for an identified project
Secretariat	The personnel together with other resources within the ministry hosting the PAC, who provides secretarial services to the Committee
Sensitive/Complex Projects	Projects as shall be so described by the Procuring Entity for purposes of aligning the projects to suitable consultants

1.0 INTRODUCTION

In an effort to transform and improve the implementation of capital development projects, the public and private sector initiated the review and reintroduction of the direct appointment of consultants. This culminated in the issuance of Presidential Directive CAB 12/2007 of 11 May 2007, which outlines “Measures to Address Project Implementation Bottlenecks”.

The fundamental principles and objectives of the Direct Allocation System (DAS), otherwise referred to as Roster, are as follows;

1.1 Principles & Objectives

1.1.1 Equity

The system must allocate work equitably to all consultants registered with the PAC without favour or preference over another, notwithstanding the provisions of 1.2.2 below.

1.1.2 Transparency

Regulation of the system must in all aspects be seen to be free of any undue influence from any party for any reason whatsoever.

1.1.3 Fairness & Clarity

The system must be unbiased and offer all registered consultants equal opportunity of being allocated projects, but with an allowance for intervention if the Procuring Entity has objections on any one consultant allocated work, and / or allocated consultant is found to be to an unworthy recipient who is already struggling with delivery, and / or is found to defeat the intention and spirit of the scheme like fronting for foreign entities.

1.1.4 Speedy Execution of Projects.

It is expected/intended that the system will result in quicker appointment of consultants resulting in faster execution of projects.

1.2 Procurement Legislation

- 1.2.1 Procurement of services and goods in Botswana is guided by the PPAD Act which provides the regulation, policies and processes thereof. Roster is primarily intended to support this current procurement framework. Furthermore, the Roster embraces and is aligned to government policies or priorities as articulated through national development plans, annual national budgets and national vision framework.

- 1.2.2 The Project Allocation Committee will set aside 10% of commissions for allocation to consultancies owned 100% by women, youth and disabled persons, who would have been registered in accordance with the provisions outlined in 3.2 hereunder, as shall be advised by Procuring Entities.

1.3 Scope

- 1.3.1 Direct appointment of consultants is the most optimal and value adding procurement option for small to medium size and routine capital development projects. This method of procurement shall apply to all projects whose construction cost is up to P150 million.
- 1.3.2 All Procuring Entities (PEs) shall comply with these Guidelines for the identified class of projects.

2.0. METHODOLOGY

Management and monitoring of the appointment of consultants through the Roster shall be through the joint effort of the *public sector* and the *private sector*. A committee shall be appointed for the dual role of registering consultants that qualify for direct allocation of projects and the actual allocation of projects in accordance with these Guidelines.

2.1 Projects Allocation Committee (PAC)

- 2.1.1 The committee, referred to as the Project Allocation Committee (PAC), shall comprise representatives of the following entities:
- The Procuring Entities, (one representative each)
 - Business Botswana Construction Sector (one representative)
 - Business Botswana Engineering Sector (one representative)
 - Quantity Surveyors' Registration Council (QSRC) (one representative)
 - Institute of Botswana Quantity Surveyors (IBQS) (one representative)
 - Architects' Registration Council (ARC) (one representative)
 - Architects' Association of Botswana (AAB) (one representative)
 - Engineers' Registration Board (ERB) (one representative)
 - Botswana Institute of Engineers (BIE) (one representative)
 - Association of Consulting Engineers Botswana (ACEB)
- 2.1.2 Every entity above shall nominate an alternate member for every appointed member and any such alternate member shall attend and take part in the proceedings of the PAC whenever the substantive member to whom he/she is alternate is absent.

2.1.3 The representatives of Procuring Entities are such members as would have been nominated by the respective Ministries, and who shall be holding a position of no lower than a Principal (or equivalent) in the department or Ministry.

2.1.4 Representatives of the various entities which make up the PAC shall be citizens of Botswana.

2.2 Meetings of the Projects Allocation Committee (PAC)

2.2.1 The PAC shall meet once a month on the first Thursday of the month. If the day falls on a holiday, then the meeting shall be held on the following Thursday. The PAC may decide to hold meetings in between the monthly meetings depending on its workload.

2.2.2 The quorum at any meeting shall be five (5) members from the private sector and Regulatory Bodies component of the PAC, who shall be everyone listed under item 2.1.1 except the Procuring Entities.

2.2.3 Should the meeting be postponed on the scheduled date due to quorum not formed, then the meeting shall convene on the next agreed date to carry out the business of PAC regardless of quorum.

2.2.4 The PAC shall remove from the Committee any member who misses three consecutive meetings without leave of absence and shall ask the entity the member represented to replace the member removed.

2.2.5 A member shall hold office for a term of not more than three years, with an option to serve another term.

2.2.6 The chairperson of the PAC shall be appointed by and from the private sector component of the Committee and shall hold this position for a period of not more than four years.

2.2.7 The duties of a chairperson shall be but not limited to arranging and chairing meetings, including preparation of agenda for meetings and shall be responsible for effectiveness of the Committee.

2.2.8 Should the chairperson not be available at the start of a quorate meeting, the members present shall choose a chairperson for the meeting from the private sector members present.

2.2.9 The Ministry hosting the PAC shall be the Secretariat and shall delegate a senior officer holding the post of no lower than a principal to be the Secretary of the PAC, duly assisted by two other officers holding the office of deputy principal and a senior professional, all of whom shall not be redeployed elsewhere without consideration of the disruption that the redeployment will cause to the operations of the PAC.

2.2.10 The Secretariat shall endeavour to send the agenda of meetings to members at least five working days before the date of the meeting.

2.2.11 The Secretariat shall endeavour to send minutes of meetings to members within two weeks of the date of the meeting.

2.2.12 At the start of each meeting of either the PAC or its sub-committees, a “Conflict of Interest” form shall be signed by each member of the committees.

Where a member declares such a conflict, the Committee or sub-committee shall consider it to assess its likely impact on the proceedings of the meeting. (Annexure 1).

2.2.13 At all material times, established corporate governance principles shall govern the conduct of meetings of the committee and sub-committees including execution of their duties generally.

2.2.14 Government shall ensure the efficient operation of the Committee and its Sub-committees by availing resources as may be required. To that end, the Ministry hosting the PAC shall consider remuneration of Committee and Sub-committee members, including any other costs as may arise from the operations of the PAC.

2.3 Sub-committees of PAC

2.3.1 In pursuance of effective delivery on its mandate, the Committee shall have the authority to form sub-committees with clearly defined tasks under its direction. Membership of the sub-committees shall be open to any members of the categories listed under 2.1.1.

2.3.2 The Secretariat of the PAC shall extend their services to the sub-committees for continuity and guidance.

2.3.3 The chairperson of any of the sub-committees so created shall be a full member of the PAC from the private sector.

2.4 Allocation Procedure

2.4.1 Initially, the direct appointment will be based on a very simple manual system wherein the lottery, blind matching approach will be used to award projects to all eligible consultants. In due course a computer based system may be acquired or developed to speed up the exercise and improve the randomness of the project / consultant matching.

- 2.4.2 On the appointed day for the selection and matching of projects to consultants, the PAC shall pick, in an open “award” process, one project from the “projects box” and one consultant from the “consultants’ box”. Each of these selections shall be “blind” in order to ensure that the selecting and matching of projects to consultants is completely arbitrary. The process shall be repeated until the projects are exhausted.
- 2.4.3 Complex and sensitive projects: Consultants for these types of projects shall be identified at a PAC sitting, in agreement with the concerned procuring entities, from the consultants still remaining in the unallocated list, subject to any security vetting or other checks as may be necessary. Once allocated such a project, they shall be removed from the list of consultants awaiting project allocation.
- 2.4.4 The process shall ensure that consultants who receive commissions from the DAS are removed from the list of eligible consultants until all consultants on the initial list have received commissions for each discipline that they are registered under. The list shall be publicly displayed at the Secretariat or at any other places as shall be decided by the Committee.
- 2.4.5 All newly registered consultants will not be included in the lists of consultants still awaiting to be allocated projects until the end of the allocation cycle, when all lists are cleared and consultants are all equally eligible. That is, the lists of consultants awaiting allocation will have to be cleared out before any new entrants can be introduced and the process of project allocation re-starts with all consultants, old and new in the same box/bottle, so that on each cycle, all consultants will have the same opportunity that is not diluted or disadvantaged by new entrants as the cycle progresses from the start to the end.
- 2.4.6 Where a consultant has been allocated a project and the project is deferred or does not start for a period of six (6) months from the date of allocation, such allocation shall be nullified and the PE concerned shall be notified.
- 2.4.7 The Committee shall first enquire from the PE concerned at the end of the fourth (4th) month what the progress on the project is.
- 2.4.8 Where a project allocation has been nullified, the consultant (s) affected shall be allocated a new project ahead of those on the roster.
- 2.4.9 Procuring Entities (P.E.s) shall be required to inform consultants about their appointments through registered mail, in addition to all other forms of communication available such as facsimile, email, etc. The consultants shall be required to respond to the P.E.s within fourteen (14) calendar days, furnishing the P.E.s with copies of their current Tax Clearance Certificates and Professional Indemnity Insurance covers and any other information which the P.E.s may require.

- 2.4.10 Consultants who fail to respond to P.E.s within the stipulated period of fourteen (14) calendar days for whatever reason or cannot be contacted, shall have their projects allocation automatically lapse or cancelled and the projects awarded to the next consultants on the DAS roster. Such cancellation shall be communicated to the concerned consultants by the P.E.s and copies of the communication sent to the PAC Secretariat. The failed consultants shall then be suspended from the DAS until they inform the PAC Secretariat in writing that they have remedied the situation which prevented them from accepting their previous project award, including submitting all the requisite documents for 'Eligibility' for registration with DAS under item 3.2.1 of these Guidelines. The concerned consultants shall then be included in the next projects allocation cycle.

3.0 APPLICATION / REGISTRATION PROCEDURE

3.1 Principles & Objectives

- 3.1.1 Registration of consultants wishing to be considered for inclusion in the roster system will be done at quarterly intervals. An advertisement shall be placed in the Government Gazette as well as in at least two consecutive issues of a national weekly newspaper, informing interested firms that registration is open and stating the information that must be provided by the interested firms in order to be considered for registration in the Roster.
- 3.1.2 For purposes of registration in the roster system, multi-disciplinary consultancies **shall** register in only one discipline to ensure equitable distribution of work, in line with the "Principles & Objectives" of the DAS, as well as to avoid situations where the same consultant may be commissioned in multiple disciplines within the same project.
- 3.1.3 Consultants previously registered with the PAC as multi-disciplinary consultancies shall be required to forego other disciplines and choose **one** which the Practicing Principal(s) shall be qualified in to remain with.
- 3.1.4 Where a consultant changes discipline/profession after registering with the PAC, they shall de-register from the PAC and register the new discipline/profession afresh and be treated as a new registration. Where the change is made when a project has been allocated to the consultant, they shall continue with the project to completion.
- The consultant shall then be allowed on the roster under the new discipline only after successful completion of the project they have been awarded.
- 3.1.5 The PAC shall consider applications for registration with the DAS at quarterly intervals of the Government financial year.

3.2 Eligibility

3.2.1 The following are the eligibility requirements for registration of interested consultants wishing to be included in the DAS;

- a. Copy of PPADB registration.
- b. Copy of current BURS Tax Clearance Certificate.
- c. Certified copy of a Professional Indemnity Insurance Cover (PI copy by issuing authority).

Note: The PI shall be from a recognised Botswana-based insurance company and shall be at least Pula one (1) million per discipline for Architectural, Civil/Structural and Quantity Surveying consultants and half a million Pula per discipline for Electrical and Mechanical Engineering consultants. On award of a project, the P.E. may require submission of additional information as they may deem necessary, e.g. project specific P.I.

- d. Registration of key personnel with a professional regulatory body in the discipline under which one wants to register. Copies of registration certificates shall be certified by the issuing authority. Updated membership certificates shall be submitted to the PAC annually.
- e. Valid membership of professional institutions (e.g. AAB, IBQS, BIE) for key personnel in the discipline under which one wants to register, which are recognised by the professional regulatory bodies. Updated membership certificates shall be submitted to the PAC annually.
- f. Valid membership of Business Botswana. Updated membership certificates shall be submitted to the PAC annually.
- g. As a minimum, a consultant should have at least one (1) Practising Principal with a Practising Certificate and relevant work experience of minimum eight (8) years (**for All disciplines**) and
 - two (2) other staff members, one being at least a graduate and the other at least a technician in their respective disciplines (**for Architectural and Engineering disciplines**)
 - at least one graduate staff member for **quantity surveying** consultants.
- h. A list of shareholders, directors and staff, together with CVs and letters of confirmation of full-time employment which shall be signed by a commissioner of oaths, including certified copies of Omang.
- i. Documentation from The Registrar of Companies confirming ownership of the company/firm and these should include all necessary and applicable forms for registration e.g. Form 2, Form 4, Form 5, Form 13, Form 14, Form 31B, etc. including relevant documents for partnerships and sole proprietors.

- j. Confirmation/proof of physical address of consultant's offices and general office equipment/facilities.
- k. When assessing applications for registration, the PAC shall have the authority to approve, defer or reject an application on the basis of the information available to the Committee.

Reasons for any of the Committee's decision shall be communicated by the Secretariat to the applicant within two (2) weeks from the date of the Committee meeting in which the application was assessed.

- l. Applicants who provide false information for the purpose of registration shall be rejected outright and shall be called for a hearing by the Committee, after which applicants may be black listed from future registration under the DAS.

Upon detecting such falsehoods, the PAC shall immediately report the practicing principals of such consultants to their respective registration bodies for further sanctioning.

- m. Certification of documents submitted with applications for registration shall be done by the issuing authorities of those documents. Exception to this requirement shall be qualification certificates, which shall be certified by a commissioner of oaths.

NB: Tax clearance and PPADB registration certificates do not need certification.

3.2.2 In addition to non-compliance with of any of the above, an application may be deemed ineligible if;

- a. The Practicing Principal and/or the Practicing Professional(s) was/were/are associated with a consultant/consultancy that was struck off the Roster because of their direct involvement which lead to the entity being struck off.
- b. The Practicing Principal and/or the Practicing Professional(s) are still serving a suspension for unprofessional, unethical conduct and/or failure to deliver on assignments.
- c. The Practicing Principal and/or the Practicing Professional is/are associated with a consultant that is already registered in the Roster.
- d. The Practicing Principal and/or the Practicing Professional is/are full-time employed elsewhere.
- e. The company or its Practicing Principal is or are Contractors.

3.3 Categorisation of Consultants and Projects

3.3.1 Consultants registered with the PAC shall be categorised according to the experience of the Practicing Principal and the period which the consultant(s) has/have continuously operated in Botswana in order to infuse quality and match project allocation with the consultant's ability to carry out the allocated project.

3.3.2 Projects shall be allocated in the following manner:

- a) Category A: Projects with estimated value of up to P50 million may be allocated to any consultant (firm) on the DAS register.
- b) Category B: Projects with estimated value of between P51 – P100 million shall be reserved for consultants (firms) whose Practicing Principals have 9 - 15 years' experience and the consultant (firm) has operated in Botswana for more than 5 years.
- c) Category C: Projects with estimated value of between P101 – 150 million shall be reserved for consultants (firms) whose Practicing Principals have 16 years' experience or more and the consultant (firm) has operated in Botswana for more than 10 years.

3.4 Formalisation of Roster Awards

- a. The Evaluation Reports arising out of the expression of interest by consultants to participate in the DAS system shall be submitted to the Ministerial Tender Committee (MTC) for adjudication in the normal manner. Upon approval at MTC, the list of qualifying consultants shall be published.
- b. The recommendations for award arising out of the matching of projects to consultants shall be submitted to MTC for adjudication and award. Upon approval by MTC, the list of successful consultants and the respective projects shall be publicised.
- c. Those consultants registered on the initial list will continue to be given priority for the award of work until each consultant has received an award through the DAS, even if the list is not exhausted by the time of the subsequent registration. The same principle shall apply to subsequent lists and awards.

3.5 Removal of Registered Consultants from the Roster

3.5.1 A consultant may be removed from the PAC Roster under any of the following;

- a. It ceases to exist
- b. The Practicing Principal writes to the PAC to request that the consultant be removed from the Roster
- c. Citizen ownership is transferred to non-citizens
- d. The consultant or practicing principal is found to be using other consultants' personnel to carry out work allocated under DAS, thereby defeating the intention of equitable distribution of work
- e. The Practicing Principal is struck-off from practising by the registrar of their professional registration body
- f. Sublets or subcontracts work without Client's consent
- g. The Practicing Principal and/or the Practicing Professional take up employment elsewhere and the consultant fails to replace them
- h. The Practicing Principal and/or the Practicing Professional relocate from Botswana and the consultant fails to replace them
- i. The Practising Principal's inability to practice due to disability or death and the consultant fails to replace him/her within a period of six (6) months from the date of disability or death
- j. Under performance of consultant on assignments as shall be determined from the projects monitoring exercise
- k. If it is discovered at any point that the consultant registered with DAS using false information

3.5.2 The PAC shall impose a suspension of not less than two (2) years on consultants that would have been removed from the Roster for unethical and/or unprofessional conduct.

3.5.3 A consultant removed from the PAC Roster shall be eligible for re-registration upon satisfactory submission of an application as any new entrant and proof that they have attended to or rectified whatever caused their removal in the past.

3.6 Appeals by Consultants

3.6.1 An appellant body shall be appointed by the PAC comprising three (3) members, one from each Association – AAB, BIE, IBQS and ACEB to address grievances/complaints which consultants may have arising out of decisions of the PAC regarding their applications. The appellant body shall appoint its chairperson.

3.6.2 The Secretariat of the PAC shall extend their services to the appellant body.

3.6.3 The appeals process shall be that the aggrieved consultant shall first write to the PAC and state their grievances. The PAC shall then invite the consultant for a meeting/hearing.

3.6.4 If the consultant remains aggrieved after the hearing and wish to escalate the matter, they shall then appeal in writing to the appellant body.

3.7 Database of Registered Consultants

3.7.1 The PAC shall establish a method for keying information about the consultants and the awards into a database. The “draft” database is then issued to the PE, MTC, professional institutions (BIE, AAB, IBQS, ACEB), Business Botswana and Registrars of the Registration Councils for Engineering, Quantity Surveying and Architecture for checking and comments. Once comments are received to ascertain the veracity of the information provided, the database shall be accordingly corrected and adopted as the final Database.

4.0 REMUNERATION OF CONSULTANTS

4.1 Remuneration of consultants is to be based on the latest applicable fee scales and rates.

4.2 The current published fee scales and rates for each discipline at the time of the start of implementation of the project shall be used.

4.3. The fees and rates shall be applicable for the duration of the engagement.

4.4. In the event that revised fee scales and rates are published after the award of the project but before commencement of its implementation, the fees and rates shall be revised accordingly.

5.0 CODE OF CONDUCT FOR REGISTERED CONSULTANTS

5.1 The PAC shall develop a Code of Conduct for all registered consultants.

5.2 All consultants are however, still expected to abide by the Codes of Practice as put in place by their respective Regulatory Bodies.

6.0 PROJECTS MONITORING

6.1 The PAC together with procuring Entities shall develop a project monitoring framework for use under DAS. All allocated projects shall be monitored primarily to give feedback on performance of both the consultants and the Client’s Representatives.

ANNEXURES

1. Declaration of Interest Form
2. PAC Committee Members

ANNEXURE 1
DECLARATION OF INTEREST FORM

PAC Meeting No:

Date:

We confirm our interests in items or matters on the Agenda that conflict with our duties as Members of the Projects Allocation Committee as recorded below:

<u>Name</u>	<u>YES / NONE</u>	<u>If yes, state details of Agenda Item</u>	<u>Signature</u>

ANNEXURE 2
PAC COMMITTEE MEMBERS

<u>Name</u>	<u>Ministry/Organisation</u>
1. Mr. Puma Mathware – Chairman	QSRC
2. Ms. Gorata Moleboge	MIHD
3. Mr. Moseki Leseane	MIHD
4. Ms. Keletso Mfolwe	MIHD
5. Mr. Kethaetse Masoso	MIHD
6. Lt. Colonel A. J. Van Zyl	BDF
7. Senior Supt. T. Mojaje	Botswana Police Service
8. Ms. B. Lesejane/ Mr K. Bonamelo	DTS
9. Mr. Moffat Mothibedi	DLGTS
10. Mr. N. F. Tumelo	MOHW
11. Ms. Gorata B. Kgafela	AAB
12. Mr. Vincent Moapare	ARC
13. Ms. Linda Moseki	ERB
14. Mr. Robert Akanyang	IBQS
15. Mr. Caesar Tshupelo	Business Botswana Construction Sector
16. Mr. Patrick Magosi	Business Botswana Engineering Sector
17. Mr. Moss Motshwane	ACEB

ALTERNATES:

1. Mr. Mr. R. C. Morapedi	ARC
2. Mr. Chiwala Maipambe	IBQS