



A Short Note on

Framework Agreements & Advance Procurement

Accelerating National Development through Increased Efficiency,
Competition, and Value for Money in Public Procurement

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Abbreviations and Acronyms

CSA	Civil Service Agency
GOL	Government of Liberia
GSA	General Services Agency
ICB	International Competitive Bidding
LRA	Liberia Revenue Authority
MACS	ministries, agencies, commissions, and other public funded bodies
MFDP	Ministry of Finance & Development Planning
MOA	Ministry of Agriculture
MOH	Ministry of Health
NCB	National Competitive Bidding
PC	Procurement Committee
PPCA	Public Procurement & Concessions Act
PPCC	Public Procurement & Concessions Commission
QCBS	Quality Cost Based Selection
RFQ	Request for Quotation

Background and Context

Over the years, developmental activities, programs and projects implemented by procuring entities in government have been adversely impacted due to delays in the approval of the national budget which cascades into procurement bottlenecks and ineffective budget execution. These procurement bottlenecks manifest in two forms: challenges in acquiring recurrent goods and services required for routine operation, and protracted delays in procuring non-recurrent goods and services.

Challenges in Acquiring Recurrent Goods and Services

The PFM law envisaged the delays in the approval of the national budget and empowered the Minister of Finance to appropriate up to one-twelfth of an agency's previous year's budget for each month of delay as a way of enabling the agency to continue to operate until the budget is approved. In order to utilize this one-twelfth appropriation and in cognizance of a provision of the procurement law prohibiting agencies of government from committing the government in a procurement contract unless the contract amount has been approved in the national budget, agencies have been constrained to extend previous year's contract for the provision of recurrent goods and services. The Commission has required agencies to obtain its approval prior to extension of any previous year's contract for the number of months that the budget approval is delayed.

This practice of extension of previous year's contract poses an inherent disadvantage to ensuring value for money because the previous year's vendor, contractor or service provider may not necessarily be the most responsive bidder in the current year. After extending the previous year's contract for a number of months in the current year, an agency would conduct tender for the current year contract following approval of the national budget. In the event that the previous year's contract holder is not the most responsive in the current year, the country would have lost value for money for the months of the current year for which the previous year's contract was extended.

Cumulated for all such contracts in each agency and across the entire government, the value of these inefficient extension of previous year's contracts result in massive losses of the country's meager financial resources.

Delays in the Procurement of non-Recurrent Goods and Services

Delays in approving the national budget, also cascade into protracted delays in the procurement of non-recurrent goods and services such as vehicles, construction projects, etc. These procurement delays inhibit the timely delivery of much needed development project and social services to our people. The impact of these delays is particularly pronounced for road construction projects which have a very small window of execution during the Dry Season.

Budget approval delays consume the period during the Rainy Season when procurement activities for road works procurement should take place. By the time the budget is approved, it most at times is already the beginning of the Dry Season. By the time the procurement processes for these road works projects are concluded, many months in the Dry Season would have been lost, if not completely, losing the window of opportunity in the current fiscal year. Similarly, these delays adversely impact on the delivery of other equally important developmental projects and delivery of important services by agencies.

The Commission is endeavoring to mitigate these procurement bottlenecks by introducing framework agreement and advance procurement.

Mitigating these Challenges to Effective Procurement

In order to mitigate the problems intimated above and increase efficiency and value for money in public procurement, the Commission envisions the roll-out implementation of framework agreements for recurrent procurement items and advance procurement for other procurements. Annually, procuring entities will be required to commence these new procurement processes for the next fiscal year in the current fiscal year and conclude them in June. The idea being to effect framework agreements right from the start of the new fiscal year, doing away with extension of previous year's contracts, and to sign contracts emanating from advance procurement processes immediately after the budget is signed into law by the President.

Framework Agreements

A framework agreement provides the means by which procuring entities can conduct and conclude a procurement process for a recurrent goods or service in advance of budget approval without breaking the law that prohibits agencies from committing the government in a procurement contract unless the funding for the contract has been approved in the national budget.

What is a Framework Agreement?

A framework agreement is an ‘umbrella agreement’ that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts (call-offs) can be made throughout the period of the agreement. Most framework agreements do not place any obligation on the purchaser to actually buy anything.

In other words, a framework agreement is an instrument by which a procuring entity commits to procuring goods and services from a vendor or service provider at the agreed unit price and quality through the issuance of purchase orders depending on the entity’s needs and funding availability. The vendor or service provider, for its part, commits to supply the goods or provide the services in the quantity requested on the purchase orders. These commitments are made and upheld by the parties throughout the life of the framework agreement. So in a framework agreement no financial commitment is made until a purchase order is issued by the procuring entity and honored by the vendor or service provider. The agreement is merely an instrument to facilitate the conduct of early procurement activities to avoid the bottlenecks associated with budget approval delays and mitigate the inefficient use of public funds that results from these bottlenecks.

During each month that the budget approval is delayed and when the Minister of Finance appropriates one-twelfth of an agency’s previous year’s budget, the agency can then issue a purchase order for the portion of its one-twelfth allocation for the goods or service under the framework agreement.

After the budget has been signed into law by the President, the agency can continue to execute purchase orders on a periodic basis (say, monthly) for the unexecuted portion of its budget for the particular goods or service.

Types of Framework Agreements

The three types of framework agreements are explained below.

Definite-Quantity Framework Agreement

A Definite-Quantity Framework Agreement provides for delivery of a definite quantity of specific goods, services or works for a fixed period, with deliveries or performance to be scheduled at designated locations upon order.

It is used when it can be determined in advance that a definite quantity of goods, services or works will be required during the contract period. Below are some examples of when a Definite-Quantity Framework Agreement is used:

- LRA issues a purchase order for the supply of 10 reams of A4 paper each week.
- MOA issues a purchase order for the supply of a ton of fertilizer each month.
- MOH issues a purchase order for 1,000 packets of paracetamol each month.
- PPCC issues a purchase order for the provision of breakfast and lunch for 25 persons each working day.

The assurance is that the goods, services or works are regularly available or will be available after a short lead time/ notice.

Requirements Framework Agreement

Requirements Framework Agreement fulfil all actual purchase requirements of one or more public bodies for goods, services or works during a specified contract period, with deliveries or performance to be scheduled by placing orders with the contractor.

It is used when a procuring entity anticipates recurring requirements but cannot predetermine the precise quantities of goods, services or works it will need during a definite period.

For example, the GSA may require roofing sheets, paint, nails, etc. to meet unknown situations. The quantities cannot be predetermined. As another example, the MFDP knows it will require air conditioner maintenance service during the fiscal year but cannot predetermine the scope or quantity of the service. Such an agreement could also apply to acquisition of works (e.g., repair, modification, or overhaul) on existing public assets, equipment or stores.

This agreement therefore states that AS AND WHEN required, based upon the issuance of a purchase order, the supplier will supply the stated quantities. The agreement may state either an estimated total quantity or a maximum required quantity.

Indefinite-Quantity Framework Agreement

Indefinite-Quantity Framework Agreement provide an indefinite quantity, within stated limits, of goods, services or works during a fixed period, and may be a delivery order framework agreement, a service order framework agreement, or a works order framework agreement.

This is usually an agreement between a central agency for the provision of an indefinite quantity, within stated limits, of goods, services or works during a fixed period and delivered according to customers' orders. Quantity limits may be stated as number of units or value. For example: *this agreement will not exceed \$1million of 500,000 units of Toner.*

This kind of framework agreement are best suited for aggregated bulk purchasing, which situations are not allowed under the PPCA. In our context, these kinds of agreements will not apply. In this light, all non-aggregated purchasing situations that could be classified as Indefinite-Quantity Framework Agreements will be classified as Requirements Framework Agreements.

A framework agreement template is provided in Annex 4 on Page 16.

Advantages of Framework Agreements

Using framework agreements provide the following advantages, which increase efficiency in public procurement and increase value for money.

- Mitigate procurement bottlenecks caused by the following:
 - a) delays in the approval of the national budget
 - b) delays in finalizing entity procurement plans
- Avoid extension of previous year's contract which inherently limits competition and value for money.
- Avoid dividing a procurement order into parts or lower the value of a procurement order just to avoid the application of the specific method of procurement.
- Avoid repeated purchase of similar items in small uneconomic quantities which result in increased transaction cost to procurement management and poor value for money.
- Avoid bulk deliveries which amount to holding large stocks and the associated risks tied up capital, theft, damage, or expiry of supplies leading to waste and possible pollution. It makes the supplier the stockholder over the period of the agreement.

When to use Framework Agreements

Framework agreements are typically used where the procuring entity knows they are likely to have a need for particular products or services, but are unsure of the extent or schedule. They are also typically used for to purchase recurrent procurement items that agencies would generally spend their one-twelfth allocation on. Use framework agreement for the following:

- Recurrent procurement items such as stationery, fuel, scratch cards, etc.
- Goods and services that the agency may need during the fiscal year but which quantity and/or scope is not known up front such as repair of air conditioners, computers, etc.

They are used for **off-the-shelf common-use items of standard specifications** such as stationery and office supplies; **non-consulting services** such as maintenance and repair, catering, security, cleaning, transport hire; and **small value contracts for works and emergency operations**.

Table 3 in Annex 2 on Page 14 provides a typical list of contract packages that are procurable under framework agreements.

Processing Steps

Table 1 on Page 7 shows the key steps in a typical process for the procurement of a recurrently used item, which process would culminate in the signing of a framework agreement between a vendor or service provider and a procuring entity.

Figure 1 in Annex 1 on Page 13 also show diagrammatically a flowchart for the steps leading to either a framework agreement or a contract emanating from an advance procurement process.

Please note that the steps are basically the same for conducting regular procurement in accordance with the PPCA with the key difference being that instead of signing a binding contract that commits the government as would be required in a regular bidding process, a framework agreement is signed.

Step No.	Key Activity	Description
STEP 1	Get Budget Ceiling	Obtain budget ceiling from MFD
STEP 2	Identification of Needs	Obtain all requirements to be procured for the year. Identify those to be acquired through Framework Agreements.
STEP 3	Categorization	Group these under GOODS, WORKS, and NON-CONSULTING SERVICES. Example of Goods – Stationery, Fuel, Agricultural inputs (fertilizer); Example of Works – Repair & Maintenance - civil, Seasonal roadside weeding; Example of Non-Consulting Services – Catering, Travel, Vehicle rental, Maintenance, Cleaning, Security Services.
STEP 4	Prepare Draft Procurement Plan	Based on budget ceiling, prepare detailed budget, prepare draft procurement plan for submission to the Commission
STEP 5	Obtain PPCC Approval	Submit detailed budget and draft procurement plan to PPCC for preliminary “No Objection” to proceed
STEP 6	Invite Bids	Issue out bids either upon advertising (for ICB, NCB, QCBS, etc.) or to identified/pre-qualified bidders
STEP 7	Receive and Evaluate Bids	Procurement Committee (PC) receives bids at indicated deadline. Evaluation panel set up by PC evaluates bids and submits Evaluation Report with recommendations to PC.
STEP 8	Verify Vendors Registration Status	Verify the registration status of the selected bidder(s) on the PPCC Online Vendors Register by visiting ppcc.gov.lr/vr . Only vendors or service providers registered on the PPCC Vendors Register are eligible for the award of any procurement contract, irrespective of the procurement method used.
STEP 9	Seek Approvals as Required and Award Framework Agreements	Seek approval from Procurement Committee, PPCC, etc. as appropriate. Complete draft framework agreement which must have been part of the Bidding Document as appropriate providing details of delivery, performance requirements, payment terms etc.
STEP 10	Monitor Delivery and Performance	Appropriate department to monitor delivery as per agreement and sign off as required. Appropriate department to monitor and document performance/non-performance.
STEP 11	Payments	Finance Department to ensure payments according to framework agreement. Note that this form of agreement is not a lump sum contract. Payment is triggered by certified delivery/performance.

Table 1: Key Steps for Framework Agreements

Procurement Parameters

Choice of Procurement Method

Guided by the nature of procurement and thresholds, choose appropriate procurement method – RFQ, Restricted Bidding, NCB, ICB, QCBS, etc.

Note that Framework Agreement is not a procurement method.

After a competitive bidding process, procuring entities should award framework agreements at an agreed unit price over a defined period (usually one year), with orders placed at the agreed price when required.

Inclusion in Procurement Plan

Ensure that these are captured in the Procurement Plan.

Note that the date of last delivery/performance under the Framework Agreement should be the completion date in the Procurement Plan.

Preparation of RFQ/Bidding Document

Clearly state that this procurement will result in a Framework Agreement. Spell out

- a) Delivery/Performance Schedules (Activity schedule);
- b) Method of Ordering;
- c) Payment Method;
- d) Termination of Contract;
- e) Contract Extension, if necessary, etc.

Advance Procurement

In advance procurement, procuring entities are permitted to conduct the procurement processes for non-recurrent procurement items prior to the approval of the budget but not to sign the contract until the budget has been approved into law by the President. Procuring entities are required to begin the procurement process as soon as they receive their budget ceilings from the MFDP. During the tendering processes, they are required to inform interested bidders as part of the solicitation process that a contract will be signed for the object of procurement contingent upon the availability of funding in the national budget.

As a result, procuring entities are advised to conclude all other procurement arrangements through the regular processes approved by the Commission and have the draft contracts developed for review by the relevant authorities. Additionally, procuring entities must notify the Commission of their intent to award for all contracts exceeding the applicable thresholds, following which the Commission will issue a temporary approval, subject to signing of the budget by the President.

It is further advised that while awaiting passage and approval of the national budget all contracts exceeding the threshold of US\$250,000 be submitted to the Ministry of Justice for review of the legal provisions, so as to ensure that they are consistent with all applicable laws.

When the budget is signed into law by the President, procuring entities will be firstly required to accordingly adjust their procurement plans and submit same to the Commission for approval. Thereafter, procuring entities may proceed to award contracts to the bidders who were selected as most responsive during the tendering process for contracts which fall below the thresholds for seeking prior approval to award. Regarding contracts which exceed the thresholds for notification of intent to award, procuring entities must firstly seek the approval of the Commission before any award is made.

Advantages of Advance Procurement

The primary advantage of using advance procurement is timeliness in completing the procurement process. In addition, using advance procurement provide the following advantages, which, like the advantages of using framework agreements, increase efficiency in public procurement and increase value for money.

- Mitigate procurement bottlenecks caused by the following:
 - c) delays in the approval of the national budget
 - d) delays in finalizing entity procurement plans
- Avoid dividing a procurement order into parts or lower the value of a procurement order just to avoid the application of the specific method of procurement.
- Avoid repeated purchase of similar items in small uneconomic quantities which result in increased transaction cost to procurement management and poor value for money.

When to do Advance Procurement

Advance procurement is typically used for the procurement of non-recurrent procurable items, such as vehicles, specialized equipment and machinery, purchase of land, consulting services, etc. It applies mainly to one-off procurement.

Processing Steps

Table 2 below shows the key steps in a typical process for the procurement of a recurrently used item, which process would culminate in the signing of a contract between a vendor or service provider and a procuring entity only upon passage and approval of the national budget.

Figure 1 in Annex 1 on Page 13 also show diagrammatically a flowchart for the steps leading to either a framework agreement or a contract emanating from an advance procurement process.

Please note that the steps are basically the same for conducting regular procurement in accordance with the PPCA.

Step No.	Key Activity	Description
STEP 1	Get Budget Ceiling	Obtain budget ceiling from MFDP
STEP 2	Identification of Needs	Obtain all requirements to be procured for the year. Identify those to be contracted through advance procurement (i.e. the non-recurrent procurable items).
STEP 3	Categorization	Group these under GOODS, WORKS, CONSULTING SERVICES and NON-CONSULTING SERVICES. Example of Goods – Vehicles, specialized equipment, etc. Example of Works – Construction – Civil, Construction – Specialized infrastructure; Example of Consulting Services – Auditing Services, Engineering Services, etc.;; Example of Non-consulting Services – Specialized Equipment Rental.
STEP 4	Prepare Draft Procurement Plan	Based on budget ceiling, prepare detailed budget, prepare draft procurement plan for submission to the Commission
STEP 5	Obtain PPCC Approval	Submit detailed budget and draft procurement plan to PPCC for preliminary “No Objection” to proceed
STEP 6	Invite Bids	Issue out bids either upon advertising (for ICB, NCB, QCBS, etc.) or to identified/pre-qualified bidders
STEP 7	Receive and Evaluate Bids	Procurement Committee (PC) receives bids at indicated deadline. Evaluation panel set up by PC evaluates bids and submits Evaluation Report with recommendations to PC.

Step No.	Key Activity	Description
STEP 8	Seek PC Approval and Prepare Draft Contract	Seek approval from Procurement Committee and prepare draft contract which must have been part of the Bidding Document and wait for the approval of national budget. Obtain PPCC temporary approval as appropriate.
STEP 9	Budget Approval	Passage of national budget by Legislature and approval by the President
STEP 10	Verify Registration of Vendor	Verify the registration status of the selected bidder(s) on the PPCC Online Vendors Register by visiting ppcc.gov.ir/vr . Only vendors or service providers registered on the PPCC Vendors Register are eligible for the award of any procurement contract, irrespective of the procurement method used.
STEP 11	Seek Approvals as Required and Award Contracts	Seek approval from PPCC, MOJ, MFDP as appropriate. Finalize draft contract as appropriate as per allocation in approved budget and sign contract
STEP 12	Monitor Delivery and Performance	Appropriate department to monitor delivery as per contract and sign off as required. Appropriate department to monitor and document performance/non-performance.
STEP 13	Payments	Finance Department to ensure payments according to contract agreement.

Table 2: Key Steps for Advance Procurement

Procurement Parameters

Choice of Procurement Method

Guided by the nature of procurement and thresholds, choose appropriate procurement method – RFQ, Restricted Bidding, NCB, ICB, QCBS, etc.

Note that Advance Procurement is not a procurement method.

Preparation of RFQ/Bidding Document

Clearly state that the award of the contract for this procurement is contingent on the availability of funds in the approved national budget.

Annex 1: Framework Agreement and Advance Procurement Flowchart

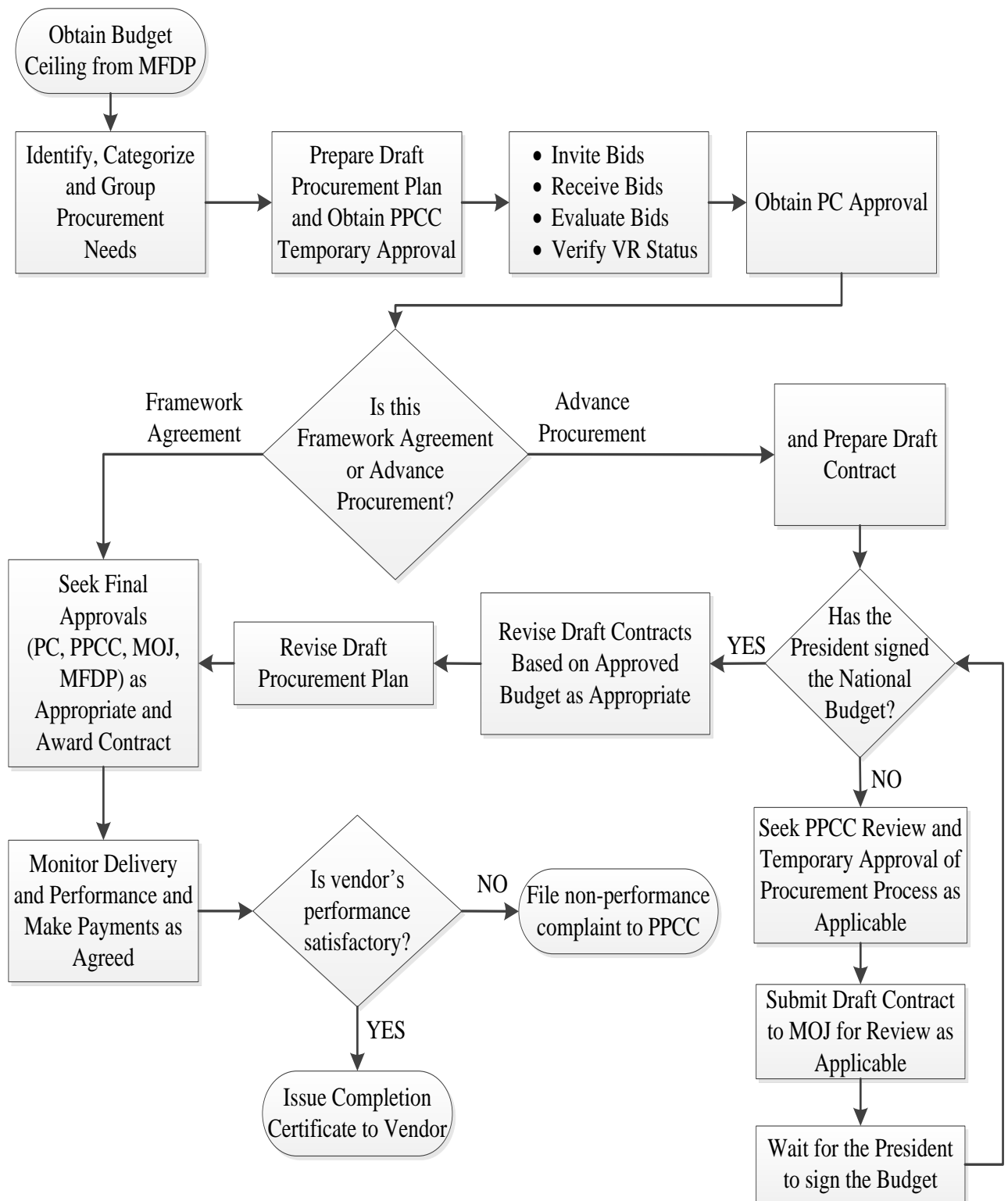


Figure 1: Framework Agreement and Advance Procurement Flowchart

Annex 3: List of Contract Packages for Advance Procurement

Below is the list of contract packages that can be procured using advance procurement. Please note that some of these packages include sub packages which are advisable to be tendered as lots. For example, Office Equipment include air conditioners, computers and IT equipment, etc. As another example, Consultancy include various types of specialized consulting services.

Goods		Consulting Services		Works	
No.	Contract Package	No.	Contract Package	No.	Contract Package
1	Arms & Ammunition	13	Accounting Services	19	Construction - Civil
2	Building Materials	14	Audit Services	20	Construction - Specialized Infrastructure
3	Furniture	15	Consultancy		
4	Household Appliance	Non-Consulting Services			
5	Journals	16	Equipment Rental		
6	Office Equipment	17	Licensing Fee		
7	Printing Materials	18	Shipping/Handling		
8	Purchase of Land				
9	Specialized Clothing				
10	Specialized Equipment and Macninery				
11	Tools				
12	Vehicles and Motorcycles				

Table 4: Contract Packages for Advance Procurement

Annex 4: Framework Agreement Template

Framework Agreement for _____

THIS FRAMEWORK AGREEMENT is made the ____ day of _____ 20__

BETWEEN

The Ministry of _____ (hereinafter called “the Purchaser”) and _____ a corporation incorporated under the laws of the Republic of Liberia and having its principal place of business at _____ (hereinafter called “the Supplier”).

The Ministry of _____ intends to apply a portion of its budgetary allocation to the procurement of _____

TERMS AND CONDITIONS

The framework agreement is based on pre-agreed unit price of USD ____ for the supply, delivery and installation of ____ units of _____ (hereinafter called “the Unit Prices”).

It is expected that up to about ____ units of _____ will be procured within the contract period. These are goods that will be required from time to time by the same agency.

As and when these items are supplied to the Purchaser, the Supplier will present for payment, invoices and waybills evidencing effected supply, delivery and installation to the Ministry of _____ for payment.

The maximum duration of the agreement is limited to one (1) year. The unit price will remain unchanged during the period of contract.

DELIVERY TERMS

This specific procurement is made throughout the term of the agreement AS FOLLOWS:

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:

This Framework Agreement
Technical Specifications
Schedule(s) of Delivery
List and Locations for delivery
The Supplier's submitted quotations
Documents evidencing delivery

3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
5. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
6. The Purchaser shall make payments to the Supplier on delivery and acceptance of the Goods as well as submission of delivery note, invoice and a waybill.
7. Technical Specifications
The Supplier shall ensure that the Goods and Related Services comply with the technical specifications and other provisions of the Agreement.
8. Warranty
The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract _____

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