3. Information relating to a specific procurement shall not be provided in a manner which would have the effect of giving a potential supplier or group of potential suppliers an advantage over competitors.

4. Where, prior to the award of a contract, a procuring entity modifies the criteria or requirements set out in the notice of procurement or tender documentation provided to participating suppliers, or amends or re-issues a notice or tender documentation, it shall transmit in writing all such modifications or amended or re-issued notice or tender documentation:

(a) to all suppliers that are participating at the time of the modification, amendment or re-issuance, where such suppliers are known to the entity, and in all other cases, in the same manner as the original information was made available; and

(b) in adequate time to allow such suppliers to modify and re-submit amended tenders, as appropriate.

Article 17.14
Submission, Receipt and Opening of Tenders and Awarding of Contracts

1. A procuring entity shall receive, open and treat all tenders in accordance with procedures that guarantee the fairness and impartiality of the procurement process.

2. A procuring entity shall treat all tenders in confidence to the extent permitted by the laws and regulations of the Party. In particular, it shall not provide information to particular suppliers that might prejudice fair competition between suppliers.

3. A procuring entity shall not penalise any supplier whose tender is received after the time specified for receiving tenders if the delay is due solely to mishandling on the part of the procuring entity.

4. Where a procuring entity provides suppliers with an opportunity to correct unintentional errors of form between the opening of tenders and the awarding of the contract, the procuring entity shall provide the same opportunity to all participating suppliers.

5. To be considered for award, a tender must, at the time of opening, conform to the essential requirements of the notice of procurement or tender documentation.

6. A contract may only be awarded to a supplier that the procuring entity has determined to have complied with the conditions for participation. If a procuring entity has received a tender abnormally lower than other tenders submitted, it may enquire with the tenderer to ensure that the tenderer can comply with the conditions for participation and is capable of fulfilling the terms of the contract.

7. Unless a procuring entity determines that it is not in the public interest to award a contract, the procuring entity shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the criteria and requirements specified in the notices and tender documentation, has submitted:

(a) the most advantageous, best value or overall greatest value tender; or

(b) where price is the sole criterion, the lowest price.

8. A procuring entity shall not use option clauses, cancel a procurement or modify awarded contracts in order to avoid the obligations under this Chapter.