



# **LAGOS STATE PUBLIC PROCUREMENT AGENCY**

## **GUIDELINES FOR POTENTIAL BIDDERS**

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## **1 Introduction**

Public procurement covers all types of acquisitions made by or on behalf of Procuring Entities in Lagos State. The purpose of these guidelines is to inform potential bidders in a general manner what is required of them when doing business with Procuring Entities. Those bidders seeking detailed understanding of the public procurement system in Lagos State should study the current Law in force, that is, the Lagos State Public Procurement Agency Law (The Law), as amended by Ch. L56, Vol. 6, Laws of Lagos State 2015, the Procurement Regulations 2014, the Procurement Procedures Manual, other manuals, Circulars on procurement issued by the Office of the Head of Service and guidelines issued by the PPA, which can be found on the website [www.lagosppa.gov.ng](http://www.lagosppa.gov.ng)

## **2 Core principles**

Public procurement rests upon certain core principles of behaviour - the five pillars of Procurement. The five pillars are:

1. Accountability – to all Stakeholders, which includes Government, House of Assembly, end users, the public and Contractors;
2. Transparency - sufficient and relevant information should be made available to all interested parties consistently and in a timely manner through a readily accessible, widely available medium at no or reasonable cost;
3. Impartiality and fair competition – all potential bidders should be treated impartially, so that they compete on a “level playing field”;
4. Integrity –Stakeholders in the procurement process should be honest, avoid conflict of interest and refrain from sharp practices that bring an unfair advantage to themselves or to their organisation;
5. Value for Money - the optimum balance between benefits and costs on a whole life basis.

## **3 Anti- Corruption Pledge**

Potential bidders should be aware that the Lagos State Government views corruption in the procurement process as a serious matter. Corruption, could be in form of offering, giving, receiving or soliciting of anything of value to a public official in procurement or in contract execution. The Law provides for offences in addition to other relevant Laws of the State.

## **4 Lagos State Public Procurement Agency (PPA)**

PPA is charged with an oversight of the operation of public procurement in Lagos State. Its mandate includes:

1. Ensuring probity, accountability and transparency;
2. Establish fair pricing standards and benchmarks;
3. Ensuring the application of fair, competitive, value-for-money standards and practices for the procurement and disposal of public assets and services;

4. Creating ample opportunities for the citizenry particularly, small and medium scale enterprises to participate in the economic opportunities and benefits of public procurement;
5. Creating a cost and time efficient and effective adjudicatory mechanism for the resolution of complaints arising from public procurement process in the State and its Local Governments filed by procuring entities, bidders and the general public; and
6. Attaining transparency, competitiveness, professionalism and guarantee integrity and public trust in the public procurement process.

PPA regularly publishes useful information on its website: [www.lagosppa.gov.ng](http://www.lagosppa.gov.ng)

## **5 Procuring entities**

Procuring entities are all public entities engaged in procurement in the State and these includes the State Government, local government Councils/Development Authority, any public body in the State engaged in procurement, Ministries, Departments, Bureaus, Offices and Agencies of the State, extra-ministerial offices, parastatals and corporations including all entities which derive funds appropriated for any type of procurement described in the Law from the State Government's consolidated revenue fund .

All entities outside the foregoing description which derive funds appropriated or proposed to be appropriated for any type of procurement described in this guidelines from Lagos State Consolidated Revenue Fund, Internally Generated Revenue, all grants /funds from donor agencies (where applicable), revolving funds, any funds generated from the Lagos State public on behalf of / through the Lagos State Government etc. shall be subject to the provisions of the Lagos State Public Procurement Agency Law.

## **6 E-Procurement**

Lagos State has automated its procurement procedures in order to run an efficient organisation that is responsive to the needs of stakeholders while promoting stability and public confidence in Public Procurement. The operation commenced with the activation and utilisation of the Vendor Registration module which enables the State's contractors to register/renew their registration online. Contractors providing services to Procuring Entities in the State must be registered on the e-Vendor Registration platform.

Five (5) additional modules being e-Tendering, e-Publishing/Notification, e-Bidding, e-Notice Award and e-Procurement Plan have also been activated in addition to the existing Vendor Registration/Renewal module in selected Procuring Entities. All Procuring Entities shall eventually be integrated onto the e-platform.

## **7 Reservations and Preferences (Domestic Preference)**

The procuring entity may also grant a margin of preference in the evaluation of tenders, when comparing tenders from domestic bidders with those from foreign

bidders or when comparing tenders from domestic suppliers offering goods manufactured locally with those offering goods manufactured in a foreign Country. Where the procuring entity intends to allow domestic preference, the bid document shall clearly indicate any preference to be granted to domestic suppliers and contractors and the criteria for eligibility for such preference.

The prescribed margins for preference in the evaluation for goods and works locally manufactured and or based on shareholdings by locals (Local Contractors) will be;

- 15% for bids from domestic suppliers for goods domestically produced, and
- 7.5% for bids for works by domestic contractor

The PPA website will from time to time indicate any preference schemes in operation and shall by Regulation set the limit and the formulae for computation of margins of preference. Details will be included in the tender documents obtained from the procuring entity if they apply to that particular requirement.

## **8 Advertisement of public procurement opportunities**

Bid opportunities are advertised in a wide range of media including the following:

- Notices may be placed on the Notice Boards of Ministries, Parastatals and other procuring entities.
- Newspapers and other print media (both local and international)
- Individual Public Procuring entities' websites
- The online Tenders Journal available on the PPA website at [www.lagosppa.gov.ng](http://www.lagosppa.gov.ng)
- Lagos State Government website [www.lagostate.gov.ng](http://www.lagostate.gov.ng)

The form of advertisement will depend on the size, complexity and monetary threshold of the goods, works or services being procured.

## **9 Content of Advertisements**

The content of an advertisement will vary according to the size, complexity and monetary threshold of the goods, works or services being procured and the method of procurement.

A typical advertisement for works will contain:

- Scope of works (a brief description of the works required);
- Basic requirements for qualification;
- Arrangements for collecting documents, including any payment required; and
- Time and place of submission of tender or quotation (this requirement must be fully observed, as any late submission will be rejected).
- Bid Opening Session Information, where applicable.

## **10 Basic requirements for eligibility to tender**

The following are the general requirements for potential Bidders to public entities:

1. Registration with the Lagos State Public Procurement Agency.
2. All bidders, in addition to registration with LASG shall possess the following:
  - professional and technical qualification to carry out particular procurement;
  - financial capacity;
  - equipment and other relevant infrastructure;
  - personnel to perform the obligations of the procurement contract; and
  - the legal capacity to enter into the procurement contract;
3. Not be in receivership, the subject of any form of insolvency or bankruptcy proceedings or the subject of any form of winding-up petition or proceedings;
4. Have fulfilled all its obligations to pay taxes, pensions and social security contributions;
5. Not have any directors who have been convicted in any country for any criminal offence relating to fraud or financial impropriety or criminal misrepresentation or falsification of facts relating to any matter.

PPA or any procuring entity may require a bidder to provide documentary evidence or other information it considers necessary as proof that the bidder is qualified in accordance with the provisions of the Law and for this purpose any such requirement shall apply equally to all bidders.

## **11 Registration of Contractors/Consultants**

Registration of Contractors/Consultants by PPA is done online. Desirous applicants need to possess the following documents in order to register online:

1. Application letter for registration addressed to the Director-General of PPA.
2. Evidence of payment of registration fees for the relevant Class
3. Certificate of Incorporation of registration with Corporate Affairs Commission, CAC Form 2 and 7 (or the new CAC Form 1)
4. Evidence of Company's Article /Memorandum of Association
5. Evidence of payment of tax These shall include:
  - Current 3 years Personal- Income Tax Clearance Certificate of two (2) Directors listed in the CAC Form CAC 7 (or CAC 1)i.e. particulars of Directors; and
  - Development Levy of these two Directors.
6. Detailed company profile detailing the company's structure, supported with organisational (professional) licenses and similar jobs executed in the past.
7. Curriculum Vitae (CV) of three (3) key staffs supported by their Professional Licenses and Tertiary Institution Certificates (e.g. B.Sc., HND etc.) relevant to the service bidder seeks to provide.
8. Passport Photograph of the Two (2) listed Directors/
9. Valid Government-approved means of identification of the Two (2) listed Directors
10. Detailed profile or Academic Certificate of the Two (2) listed Directors
11. Director's/Business Owner/proprietor's Declaration on Oath attesting to the authenticity of all documents provided and the permission to submit the said documents.
12. An Affidavit/Declaration on Oath attesting to the authenticity of all documents

provided and the permission to submit the said documents.

## 12 Classification of Contractors/ Consultants

In respect of classification of Contractors/Consultants, the Contractors/ Consultants shall pay the fees applicable to the class he intends to belong to. The different classes and fees payable are itemised below:

| CLASS | CONTRACT VALUE / THRESHOLD      | CONTRACTORS & SUPPLIERS WORKS / GOODS |             | CONSULTANTS: CONSULTANCY & NON – CONSULTING SERVICES |             |
|-------|---------------------------------|---------------------------------------|-------------|------------------------------------------------------|-------------|
|       |                                 | REGISTRATION                          | RENEWAL     | REGISTRATION                                         | RENEWAL     |
| A     | N500 Thousand and below         | N10,000.00                            | N5,000.00   | N10,000.00                                           | N5,000.00   |
| B     | Above N500 Thousand - 5Million  | N15,000.00                            | N10,000.00  | N15,000.00                                           | N10,000.00  |
| C     | N5Million - N10Million          | N50,000.00                            | N25,000.00  | N30,000.00                                           | N15,000.00  |
| D     | Above N10Million - N100Million  | N150,000.00                           | N50,000.00  | N75,000.00                                           | N25,000.00  |
| E     | Above N100Million - N250Million | N250,000.00                           | N75,000.00  | N125,000.00                                          | N45,000.00  |
| F     | Above N250Million - N1Billion   | N500,000.00                           | N250,000.00 | N250,000.00                                          | N100,000.00 |
| G     | Above N1Billion - N5Billion     | N2Million                             | N500,000.00 | N1Million                                            | N250,000.00 |
| H     | Above N5Billion – N10Billion    | N3Million                             | N1Million   | N1.5Million                                          | N500,000.00 |
| I     | Above N10Billion – N20Billion   | N5Million                             | N2Million   | N2.5Million                                          | N1Million   |
| J     | Above N20Billion – N50Billion   | N10Million                            | N4Million   | N5Million                                            | N1.5Million |

## 13 The Tendering Process

### 13.1 Prequalification

Prequalification may be necessary for large or complex works, services or projects. Prequalification is a preliminary stage of the tendering process that is designed to produce a short-list of companies that would be capable of meeting the technical standards of the works, services or project, without regard to price considerations at this stage. Prequalification should take into account:

- Experience and past performance on similar contracts or assignments.
- Capabilities with respect to construction and manufacturing facilities; and
- Financial position.

Tendering is then confined to companies/consultancies that have been prequalified.

### **13.2 Specifications**

Requirements for an item, works or service to be procured will be specified in the tender document. Specifications will normally be based on Nigerian and international standards.

Specifications form part of the tender documents and are the basis on which the technical evaluation is conducted. It is important that offers should adhere to all mandatory requirements; otherwise the offer may be rejected as non-conforming/nonresponsive.

Goods must be supplied or work done in accordance with the specifications. Items which do not meet the specified quality or standards may be rejected by the procuring entity who may withhold payment until items of the required quality are supplied. The time requirements for delivery of goods or performance of services must also be met.

### **13.3 Types of tender**

Open tendering is the default method of procurement. However, alternative procurement procedures may be used in certain circumstances. These include:

Restricted tendering may be used -

- where Contractors have already been prequalified,
- where there are time or cost constraints, or
- where there are only a few known suppliers for the required goods, works or services;

Direct contracting may be used -

- where there is only one person or company that can supply the goods, works or services being procured,
- where there is no reasonable alternative, or in certain cases of urgent need;
- where emergency procurement is required;
- where there is a need for the continuation of an existing award/contract
- based on other Guidelines set by the Agency

### **13.4 Framework Arrangements**

Some tender opportunities will be for framework Contracts. These are contracts entered over a specified period, typically one to three years, and are used for goods and services that are required on a regular basis, such as Office stationery, medical supplies, road maintenance, cleaning, guarding services etc. A framework contract shall contain a Service Level Agreement, specifying the minimum standards which will have to be met for delivery of the services.

### **13.5 Tender Document**

A tender document is a set of documents typically used for the procurement of good, works and Services which may include but not limited to the following:

- Invitation to Tenders;

- Instruction to Tenderers/Bidders;
- Bid Data Sheet;
- General Conditions of Contract;
- Special Conditions of Contract;
- Schedule of Requirements;
- Technical Specifications;
- Forms-Bid/Tender;
- Forms-Security
- Bidding documents are presented in English.

Request for Proposals may be used for the procurement of services or a combination of goods and services that are advisory or otherwise of a predominantly intellectual nature, e.g. for consultancy services and may include but not limited to the following:

- Letter of Invitation;
- Instruction to Consultants (including the Data Sheet and the appendix on breakdown of remuneration rates as required);
- Technical Proposal- Standard Forms;
- Financial Proposal- Standard Forms
- Terms of Reference; and
- Standard Forms of Contract

Request for quotations may be used for low-value procurements of goods, minor works or services that are readily available

Tender documents are presented in English.

### **13.6 Terms of Reference**

The Terms of Reference is the specification/requirements for services or a combination of goods and services that are advisory or otherwise of a predominantly intellectual nature, e.g. for consultancy services.

The Terms of Reference explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the parties, expected results and deliverables of the consultancy service/assignment. It must contain sufficient background information on the project to enable consultants to present responsive proposals.

The Terms of Reference will be specified in the Request for Proposal and are the basis on which the commercial and contractual evaluation is conducted.

The Terms of Reference should clearly define the output and deliverables required of the consultants, such as reports, maps, drawings, or software. It normally includes but not limited to the following:

- background of the assignment;
- objectives of the assignment;
- scope of work;

- transfer of knowledge;
- list of reports, schedule of deliveries, period of performance;
- method of remuneration for the assignment;
- data, local services, personnel, and facilities to be provided by the entity; and
- Institutional arrangements.

### **13.7 Completing Tender Documents**

When completing a tender document, a potential Bidder/Consultant should read the Instructions for Bidders/Consultants, which will contain all the information on how to complete and return the tender document. Specific requirements of the tender or the bid, for example, where to place attachments or whether an omission would invalidate the bid, will be highlighted in the Data Sheet.

### **13.8 Filling Quotation Forms**

PPA has produced a Standard Request for Quotation (RFQ) containing the quotation form for use by procuring entities. Potential bidders should read the instructions carefully. The form has in the first part the item descriptions, the unit of measure and the quantity required, which will have been completed by the procuring entity. The bidder will be required to fill in the unit price, any discounts offered, the brand and country of origin of the goods quoted for, and to compute the price for each item, adding tax, shipping and miscellaneous costs to arrive at the total quoted price.

### **13.9 Submission of offers**

The time and place for submission of offers will be specified in the tender documents. Bidders must submit their offers by the stipulated deadline. Any bid/proposal not submitted at the stipulated time shall be declared late and will be disqualified and returned unopened to the Bidder/Consultant. .

Some tender documents will specify that the technical and financial proposals be submitted in separate inner envelopes within an outer envelope. For these tenders, the technical envelope will be opened first and the technical evaluation carried out before the financial envelope is opened. If a technical proposal does not meet requirements, the financial envelope will not be opened and will be returned to the bidder.

### **13.10 Standard Bidding Documents**

PPA has produced and published a number of Standard Bidding Documents which will be used with suitable modifications for the procurement of different requirements.

### **13.11 Validity of Bids and Bid Security**

Potential bidders are required to submit bids/proposals that are valid for a period specified in the procurement documents. Procuring entities have the option to demand a bid security which can be a fixed sum or a percentage of the estimated value of the contract, this shall be specified in the procurement documents. The bid

security shall not be less than 1% and not more than 2% of the bidders quote. Bid securities should be from a reputable bank, insurance company (approved by LASG) or in the form of certified Bankers Cheque or letter of credit, in the amount specified in the procurement document. The original Bid Security must be attached to the returned Tender along with the receipt as proof of payment. Bid security is only valid if it extends at least thirty days after the expiry of the tender validity period. Bid security is released to unsuccessful tenderers once the contract is awarded to the successful bidder. The bid security of the successful bidder shall be returned on presentation of the contract formation documents which includes but not limited to the award acceptance letter, Performance Bond and Advanced Payment Guarantee.

A procuring entity may request supplier, contractor or service provider to extend the period of validity for an additional specified period of time.

### **13.12 Payment for documents**

Procuring entities may charge a reasonable fee reflecting only administrative and printing costs for a set of tender or prequalification documents.

### **13.13 Pricing and bid (proposal) validity**

Pricing for bids should be inclusive of all duties, taxes and other levies. The period of validity for a bid/proposal shall be the period specified in the tender documents. Most entities will require that the bid price be valid for up to three months after tender opening to cater for the evaluation, post tender negotiations and wider consultations when necessary.

The validity period required for a proposal is normally from a minimum of two to four months from proposal submission through evaluation, contract award and signature, depending on the complexity of the proposal.

### **13.14 Evaluation of Tenders**

A preliminary evaluation is undertaken by an evaluation committee soon after opening tenders to ascertain that the tender has been submitted in the correct format, has been signed, and that the correct number of copies, tender security, validity and any required samples have been provided. Any tender that does not meet the requirements is rejected. Tenders are then evaluated more rigorously for technical conformity, followed by the financial evaluation which considers prices read out at tender opening, corrections for arithmetic errors, currency, discounts etc. The lowest cost evaluated responsive tender is usually awarded the contract, however, for some tenders, a marking scheme may be used. Tender documents contain the evaluation criteria by which the tenders will be evaluated. The recommendation for contract award by the evaluation committee will be submitted to the Tenders Board for approval.

The procuring entity has the right to reject all tenders received and to terminate the procurement proceedings at any time without entering into a contract.

### **13.15 Evaluation of proposals**

The evaluation committee soon after opening the proposals first reviews each proposal to confirm that it is substantially responsive, that is, there are no important omissions or deviations from the stated objectives, Terms of Reference or other key requirements of the Request for Proposal. The proposal that does not meet the requirements is rejected. A detailed scoring of the proposals against the outlined evaluation criteria is then carried out to establish whether a proposal passes the minimum qualifying mark provided in the Request for Proposal. The financial proposals of consultants who passed the minimum qualifying mark shall be opened at a public tender opening.

The Evaluation Committee soon after first reviews the financial proposals for arithmetical errors and consistency between the financial and technical proposals prior to comparing the offered prices in the proposals read out at the public opening. The report comprising of the recommendation of the evaluation committee will be submitted to the Tenders Board for approval.

### **13.16 Negotiation of Proposals**

Following the required approvals, the Tenders Board will appoint a negotiating team to negotiate with the recommended consultant.

The objective of negotiations is to arrive at a mutually satisfactory contract between procuring entities and the selected consultants. The parties will discuss the technical proposal submitted, agree on the detailed scope of work, mobilisation arrangements negotiate financial terms, discuss and finalise contract conditions.

The negotiating team should comprise of members fully familiar with the TOR, the consultant's proposal, the comments and suggestions of the Evaluation Committee relating to the technical and financial evaluation reports, and recommendations of the Tenders Board.

Minutes of the negotiations shall constitute part of the final report to the Tenders Board for approval.

## **14 Variations and Price Adjustment and Additional Works**

All contract prices shall be considered as fixed, and therefore not subject to any upward variation during the contract implementation, except under extraordinary circumstances and only upon prior approval of the PPA which shall from time to time stipulate by regulation, the basis for allowing or computing the quantum of such variations.

Additional works, after necessary approvals and prior approval of PPA, shall be charged to the contingency provision, in the first instance. In all instances, additional works shall not exceed 25% of the initial contract price.

## **15 Performance Security**

A performance security either in the form of a performance guarantee (if issued by a bank) or performance bond (if issued by an insurance institution) is a financial tool used to guarantee satisfactory completion of a project by a contractor and ensures that in the event of default by the contractor, funds are available to complete the works being undertaken. Performance bonds or guarantees are issued as financial guarantees. Prior to the signing of the contract, a successful bidder may be required in circumstances deemed necessary by the PPA or the procuring entity as a further measure of guarantee for the faithful performance of the procurement contract and compliance with his obligation under the contract, to post a performance security in such form and amount as specified in the bid solicitation.

## **16 Terms of Payment**

- **Goods**

Processing of payment for goods commences after their receipt in store, verification that they meet specifications and signing of the delivery note. The standard terms of any payment is within 60 days of receipt in store.

- **Services**

Any payment due for services shall be within 60 days from the date of invoice after the user has confirmed that services meet the Service Level Agreement/Schedule of payments (milestones) which forms part of the service contract.

- **Works**

In major contracts for equipment and plant which may take some considerable time to complete, provision is normally made for progress payments on milestone achievements. Contracts for works provide in appropriate cases for mobilisation advances, advances on contractors equipment and materials, regular progress payments and reasonable retention amounts to be paid after full compliance with the contractor's obligations under the contract.

## **17 Rights of Bidders**

### **17.1 Notification of acceptance of tender**

The procuring entity will notify the successful bidder that his tender has been accepted, while at the same time notifying other bidders that their tenders were not successful. If the successful bidder refuses to enter into a written contract, the entity may award the contract to the next best evaluated bidder.

### **17.2 Unsuccessful Bidders**

An unsuccessful Bidder has the right to be debriefed on request. The Procuring Entity shall after a request, provide written reasons on why the tender, proposal or application to be prequalified was unsuccessful.

### **17.3 Request for Administrative Review**

An aggrieved bidder can request for review of a decision by a procuring entity. Under the provisions of section 68 of the Law, the following procedure shall apply to complaints against a procuring entity:

- A complaint by a bidder against a procuring entity shall first be submitted in writing, not later than 15 working days after the Bidder becomes aware of the circumstances giving rise to the complaint or when the Bidder should have become aware of such circumstances, whichever is earlier.
- The complaint shall be submitted to the Accounting Officer of the procuring entity who shall on receiving the complaint make a decision in writing within fifteen (15) working days indicating the corrective measures to be taken, including the suspension of the proceedings where he deems it necessary and gives reasons for his decision;
- Where the bidder is not satisfied with the decision of the Accounting Officer, the bidder may make a complaint to the PPA within ten (10) working days from the date of communication of the decision of the Accounting Officer.
- The PPA shall make its decision within twenty-one (21) working days after receiving the complaint, stating the reasons for its decision and remedies granted;
- A complaint by a bidder against the PPA shall first be submitted in writing to the Director-General of the Agency who shall bring the complaint to the attention of the PPA Board.
- The Board shall make its decision within twenty-one (21) working days after receiving the complaint, stating the reasons for its decision and remedies granted.
- Where a bidder is not satisfied with the decision of the Board, the bidder shall lodge an appeal against the decision to the Lagos State Executive Council. The decision of the Lagos State Executive Council is final and binding on all parties.

The following matters are not subject to review:

- The choice of a procurement procedure
- A decision by the procuring entity to reject all tenders, proposals or quotations

## **18 Safety & Health**

Potential bidders should be aware that importance is attached to safety and health requirements and a safety plan is required to accompany Bidding Documents for Works. For further information on Safety and Health, contact the Lagos State Safety Commission at Safety Commission, The Secretariat, Alausa - Ikeja.

## **19 Environment**

Potential bidders should be aware that Nigeria is a signatory of the Kyoto Protocol and environmental factors may be built into the tender and evaluation of bids. Examples of such factors include but are not limited to carbon footprint, level of forest degradation, emission and spillage of toxic chemicals, crude oil spills on land

or offshore, level of non-biodegradable waste, threats to biodiversity and levels of radioactive materials.

## **20 Statutory Deductions and Levies**

Bidders should note the following statutory deductions applicable to every contract sum upon award to Limited Liability Companies:

- Withholding Tax: 5%
- VAT: 7.5%
- Stamp Duties: ₦1000
- Research and Development: 1%
- PPA Administrative fees: 0.25%
- Agreement fees: 0.25%-0.5%