



BUREAU OF PUBLIC PROCUREMENT

GUIDELINES ON THE CONDUCT OF PUBLIC PROCUREMENT ACTIVITIES BY MINISTRIES, DEPARTMENTS AND AGENCIES AS A RESULT OF THE COVID-19 PANDEMIC/ LOCKDOWN

Introduction

Since the outbreak of the New Corona Virus (COVID-19) pandemic, global socio-economic activities have practically ground to a halt and this has affected the revenues from oil resources, taxes and other streams. Unfortunately, Nigeria was not spared and this has adversely affected the Nation's capacity to implement the 2020 Appropriation Act.

Due to the imminent threat to lives posed by the COVID-19 pandemic and to ramp up the Nation's capacity to address this crisis, Public-Spirited Individuals and Corporate Organisations have made reasonable financial contributions to support the fight against this pandemic. In addition, some of our Development Partners have indicated willingness to provide budgetary support to enhance the implementation of the 2020 Appropriation Act in the face of dwindling revenue, particularly as it affects our response to the COVID-19 pandemic.

In view of these facts, there is need for all procuring entities that will participate in procurements that respond to the COVID-19 pandemic to ensure transparency, accountability, probity and value for money in their procurement proceedings. This is because the procurements to be executed in response to the COVID-19 pandemic will generally fall under Emergency Procurement Method instead of the default Open Competitive Bidding Method.

The Bureau of Public Procurement (BPP) pursuant to the provisions of Sections 5(a) and (o) of the Public Procurement Act (PPA), 2007 and mindful of its oversight responsibilities as the Regulator of Public Procurement in Nigeria, hereby provides Guidelines to facilitate the conduct of public procurement activities as a result of the COVID-19 pandemic/ Lockdown which constitutes Emergency Procurement.

These guidelines are specifically on procurement-related activities and do not offer any general or health-specific guidance. The Federal Ministry of Health/National Centre for Disease Control guidelines on Coronavirus can be found on their website www.ncdc.gov.ng

Preparation of Emergency Procurement Plans

All Procuring Entities are to prepare Procurement Plans for all projects that specifically respond to the COVID-19 pandemic. These Plans should be uploaded into the Nigeria Open Contracting Portal (NOCOPO) where it will be accessed by the BPP. Any project that is not included in the Procurement Plan of the Procuring Entity shall not be processed for payment notwithstanding the source of funding for the project.

In order to enable Federal Government access funds from some Development Partners, the Procurement Plans must be uploaded into the NOCOPO. COVID-19 Projects not captured in NOCOPO may not be funded by Federal Government for implementation.

In preparing the COVID-19 Procurement Plan, Procuring Entities should ensure that no reduction of values or splitting of procurements is carried out such as to evade the use of the appropriate procurement method or thresholds.

For public procurement activities as a result of the COVID-19 Pandemic/ Lockdown, the requirement of publishing the opportunity on the Bureau's website alone is sufficient under the current circumstances instead of the standard practice of placing Advertisements in 2 National Dailies and the Federal Tenders Journal.

Procurement Implementation

Section 43 of the PPA 2007 clearly highlights the procedure to adopt when handling procurements under emergency situations like the COVID-19 pandemic. It is the responsibility of Ministries, Departments and Agencies (MDAs) involved in responding to the COVID-19 pandemic to identify such procurements.

In line with the provisions of Section 43 of the PPA, 2007, a Due Process "No Objection" is not required prior to embarking on an emergency procurement. Rather, whenever an emergency situation is identified, the procuring entity is expected to proceed immediately to engage in direct contracting to expeditiously address the situation but this must be done along the principles of accountability, due consideration being given to the gravity of each emergency. After the cessation of the situation that warranted the emergency, a detailed report should be forwarded to the Bureau for verification.

Notwithstanding the above, Procuring Entities have the responsibility to ensure that the Contactor to be engaged to carry out any emergency work possesses the requisite technical and financial capacities to undertake the project and is eligible to do business with Government. In addition, Procuring Entities should ensure that the procurement is handled with expedition but along the principles of accountability, transparency and value for money.

Having highlighted the position of the Public Procurement Act, 2007 as it concerns Emergency Procurements that respond to the Covid-19 pandemic, the Guidelines to be followed are as follows:

- (a) Procuring Entities shall identify the Goods, Works and Services to be procured
- (b) Procuring Entities shall prepare Procurement Plans based on the identified needs and forward these plans to the BPP for publishing. This will not however be applicable to procurement of essential goods and services that require immediate delivery for emergency operations. In this circumstance, the records of the procurements shall be provided after the cessation of the emergency
- (c) Procuring Entities shall identify firms that possess the requisite technical and financial capacities to carry out the procurement
- (d) Procuring Entities shall invite bids by placing Advertisements on the BPP's website for Open Competitive Bidding and through direct emails to short-listed bidders for Direct and Restricted Tendering Methods
- (e) The bidding periods for Open Competitive Bidding and Restricted Tendering should not be less than seven (7) days and three (3) days respectively due to the urgency of these procurements
- (f) The presence of bidders or their representatives shall not be required during Bid Opening. Rather, the event shall be covered by video recording to enhance transparency and for record purpose
- (g) Due to the need to maintain Social Distance and avoid overcrowding at this time, Restricted Tendering should be limited to three (3) unrelated bidders
- (h) Procuring Entities shall ensure that all Contactors invited possess requisite technical and financial capacities to undertake such projects and are eligible to do business with Government
- (i) Purchases from Government institutions must be given preference
- (j) Bid Registers, Bid Return Sheets and other relevant documents required by the PPA, 2007 should be kept by the Procuring Entity in their record of the Bid Opening
- (k) Procuring Entities shall evaluate bids in line with the requirements in the bidding documents and recommend the least evaluated responsive bidder for award of Contract
- (l) Procuring Entities shall proceed to award the contract at prevailing market prices, specifying quantity/quality (in terms of specification requirements) and time within which the execution of the Goods, Works and Services must be completed.

- (m) Procuring Entities shall ensure that prices are as obtainable at the moment given the circumstances at hand.
- (n) All records of supplies and locations should be properly kept including Store Receipt Vouchers, Delivery Notes and Invoices.
- (o) To avoid double handling and to reduce the logistic value chain, it may be necessary in some instances for Store Officers and Stock Verifiers to be deployed to locations where specialised items shall be used or installed instead of the normal practice where such items have to be first physically received in the Store and recorded in the Store Ledger before they are formally issued out for use by the relevant Department.
- (p) Lump sum contracts shall be used wherever possible, with milestone payments identified at intermediate levels
- (q) Details of the award of all COVID-19 Contracts should be forwarded to the BPP not later than 5 working days after award has been made. This information should be transmitted to the Bureau's official email address info@bpp.gov.ng and should be signed by the Accounting Officer. The hard copy shall be forwarded to the Bureau after the suspension of the lockdown exercise. The details should include the name of contractor, description of the project, contract sum and duration of the contract
- (r) All COVID-19 Contracts should be handled with expedition but along the principles of accountability, due consideration being given to the gravity of each emergency.

Non-Essential Procurements

All procurements that are non-essential in nature and that will not significantly affect Government activities at this time should be suspended. Therefore, Procuring Entities that had embarked on such procurement proceedings before the COVID-19 lockdown should suspend evaluation of such tenders received until the Presidential Task Force on CoVID19 gives clearance that non-essential activities can resume.

In the circumstance where tenders have not been received from bidders or the submission deadlines fall within the lockdown period, Procuring Entities should suspend the submission of such Tenders/Proposals until the Presidential Task Force on CoVID19 gives clearance that non-essential activities can resume.

This information should be immediately communicated to Tenderers through the same media of publication i.e. the Federal Tenders Journal and 2 National newspaper in line with the provision of Section 25 (2) (ii) of the Public Procurement Act, 2007. In addition, bidders should be informed by electronic mail and phone calls to help communicate the new deadline dates.

Conclusion

For Emergency Procurement Contracts procured through Open Competitive Bidding and Restricted Tendering, the BPP shall publish on its website the Procurement Plans, Procurement Opportunities and details of Contracts awarded which shall include the name of contractor, description of the project, contract sum and duration of the contract. Details of all other Emergency Procurements shall be published once the information is provided to the BPP by the Procuring Entity.

Ministries, Departments and Agencies (MDAs) should note that the Bureau is working in collaboration with the Federal Ministry of Finance, Budget and National Planning, the Office of the Accountant General of the Federation and the Budget Office of the Federation to ensure that these Guidelines are properly implemented. Consequently, any procurement that does not substantially comply with these guidelines issued by the BPP shall not be able to access funds from the Federal Government.

Procuring Entities can contact the Bureau of Public Procurement for further clarifications via email at: info@bpp.gov.ng

Signed
Director General
Bureau of Public Procurement