

The Public Procurement and Disposal of Public Assets Guidelines

Guidelines issued by the Public Procurement and Disposal of Public Assets Authority under section 97 of the Public Procurement and Disposal of Public Assets Act, 2003, and Regulation 12 of the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006

Guideline Details:

Guideline Reference: 12/2014

Guideline Subject: Guideline for Providers on how to Submit Responsive Bids

Date of commencement: 26th September 2014

Guidelines are distributed to all Accounting Officers who are responsible for distributing copies of this Guideline the Contracts Committee and members of the Procurement and Disposal Unit of the Procuring and Disposing Entity

Determination of the Best Evaluated Bid shall compare all substantially compliant and responsive bids/proposals to determine the best evaluated bid/proposal in accordance with evaluation methodology and criteria.

3.0 STANDARD BIDDING DOCUMENTS

In the bidding process, PDEs are required to use the Standard Bidding Documents (SBDs) issued by the Public Procurement and Disposal of Public Assets Authority (the Authority). The SBDs aim at:-

- (i) Increasing predictability and uniformity in the bidding process;
- (ii) Increasing efficiency of the bidding process and reduce costs;
- (iii) Reducing unresponsive bids/proposals and thus increasing competition; and
- (iv) Reducing preparation and review time.

3.1 Content of Bidding Documents

The solicitation documents are divided into ten (10) sections and will typically contain the following:

- 3.1.1 Bid/Proposal Notice and Invitation to take part in a tender process:** This section contains information that enables a potential bidder to decide whether to participate in a bidding process. It contains a brief description of the subject of procurement, address of the Entity where information may be obtained, non-refundable fee, amount of bid security/bid securing declaration, pre-bid/proposal meeting and bid/proposal submission address.
- 3.1.2 Instructions to Bidders (ITB):** This contains information relating to the procedures for bidding and evaluation up to the point of contract award and should be read carefully and properly understood.
- 3.1.3 Bid/Proposal Data Sheet:** This section supplements the Instructions to Bidders (ITB) by specifying details relevant to an individual bidding document such as bid/proposal submission date, form of bid security/bid securing declaration required, bid/proposal validity etc. Its clauses are numbered with the same numbers as the corresponding ITB clause under Section 1 of the bidding document.
- 3.1.4 Evaluation Methodology and Criteria:** Under this section, the bidder is informed of the methodology and criteria that the Procuring and Disposing Entity will use to evaluate the bids/proposals and determine the best evaluated bidder for example the evaluation methodology stated may be Technical Compliance Selection Methodology which recommends the lowest priced bid which is eligible and substantially compliant to the technical and commercial requirements of the bidding document. The bidder should take note that methodologies of evaluation for

procurement of consultancy services differ as provided for in the PPDA (Procurement of Consultancy Services) Regulations, 2014.

- 3.1.5 Bidding/Proposal Forms:** This section contains among others the bid/proposal submission sheet, price schedule, bid security/bid securing declaration and manufacturer's authorisation in the case of supplies and consultants references in the case of consultancy services. Bidders should take special notice of this section as a bid/proposal is acceptable only if accompanied by a duly signed Bid Submission Sheet/Technical Proposal Submission Sheet as applicable; and the Bid Submission Sheet/ Technical Proposal Submission Sheet must be substantially identical to the format provided in the bidding document, and filled in with all material information such as bid/proposal price, bid/proposal validity etc.
- 3.1.6 Eligible Countries:** This section identifies countries whose citizens are allowed to participate in the procurement process at hand as bidders.
- 3.1.7 Statement of Requirements/ Terms of Reference:** This section when completed will form part of the contract. It consists of sub-sections such as list of supplies and related services, delivery and completion schedule, specification and compliance sheet, drawings, Inspections and Tests. The bidders should ensure that they clearly understand the requirement and where in doubt seek clarification from the Procuring and Disposing Entity.
- 3.1.8 General Conditions of Contract (GCC):** This section identifies standard provisions applicable to an individual contract and forms part of the contract.
- 3.1.9 Special Conditions of Contract (SCC):** The Special Conditions of Contract supplement the General Conditions of Contract by modifying conditions such as amount of performance security, payment terms, period of warranty applicable to an individual contract. Its clauses are numbered with the same numbers as the corresponding GCC clauses.
- 3.1.10 Contract Forms:** This section contains standard forms such as the Agreement, Performance Security and Advance Payment Security.

4.0 RESPONSIVENESS OF BIDS/PROPOSALS

The PDE's determination of a bid/proposal's responsiveness is to be based on the contents of the bid/proposal itself. A substantially responsive bid/proposal is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the PDE and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

4.1 Checklist for Submission of a Responsive Bid/Proposal

The following is a checklist aimed at assisting a bidder to prepare a responsive bid/proposal in accordance with the SBDs issued by PPDA. Please note that the SBDs are available on the PPDA website at www.ppda.go.ug.

- 4.1.1 Review of the bidding document:** A bidder is permitted to inspect a bidding document at the premises of the Entity. Ensure that you have read and understood the requirements stated by the Entity in the bidding document and whether you are able to submit a responsive and compliant bid/proposal. It is also important to review the contents of the General Conditions of Contract (GCC) and Special Conditions of Contract (SCC) and the cost implications during the execution of the contract. This will prevent a bidder from incurring unnecessary costs and wasting time preparing a bid/proposal when you are not able to meet bidding and execution requirements.
- 4.1.2 Clarifications:** A bidder should list down all issues that may not be clear and for which clarifications are required from the Entity. Ensure that the procedure and time limits for raising clarifications to the Entity are complied with in accordance with the ITB. The provisions of Regulation 10 of the PPDA (Evaluation) Regulations, 2014 and Regulation 43 of the PPDA (Procurement of Consultancy Services) Regulations, 2014 shall guide the PDE in seeking clarifications while evaluating bids/proposals.
- 4.1.3 Pre-bid/pre-proposal meeting:** For large and complex procurements, Entities are required to invite bidders to attend pre-bid/pre-proposal meetings to allow potential bidders to seek clarification or to access project sites where applicable. The attendance of these meetings is usually optional and the Entity will maintain the record of attendance. It is however very important for bidders to attend pre-bid/pre-proposal meetings or site visits in order to obtain more clarifications on the procurement or disposal requirement of the Entity.
- 4.1.4 Verification of documentation:** A bidder should ensure that all documentation required by the Entity is obtained from the relevant sources prior to compilation of the bid/proposal. This will avoid compilation of your bid/proposal at the last minute which could result in errors and will also enable a bidder to verify from these sources that the documents they have received are authentic especially where an agent has been assigned to obtain the documentation on behalf of the bidder. Please note that a forged document submitted by a bidder in a bid/proposal is a breach of the Ethical Code of Conduct for Bidders and may result in the bidder being suspended by PPDA from participating in public procurement and disposal proceedings.
- 4.1.5 Receipt for purchase of bidding document:** Ensure that where a bidder is required to purchase the bidding document, a correct receipt is received by the bidder from the Entity for the full amount and in respect of the relevant procurement or disposal requirement. Please note that attachment of an incorrect receipt may result in the disqualification of your bid/proposal.
- 4.1.6 Language:** Ensure that the bid/proposal is submitted in the language of the bid/proposal in accordance with ITB. Where translation of a document is permitted

by the bidding document, the translated text must be certified in accordance with the instructions in the Bid/Proposal Data Sheet.

4.1.7 Bid/Proposal validity: This is the period for which the offer made in a bid/proposal by a bidder remains in force and this duration is specified in the Bid/Proposal Data Sheet. Ensure that this requirement is complied with in the bid/proposal submission sheet in order for a bid/proposal to be considered responsive.

4.1.8 Bid security and bid securing declarations: Where bid security is required in the bidding document, it should be from an institution specified in the bid document and should comply with the requirements stated on the duration and format. Please note that the validity of the bid security shall be 28 days beyond the end of the bid validity period.

Where a bid securing declaration is required it shall be in the format provided in the bidding documents and valid until a period specified in the bidding documents. A bidder may be suspended from participation in public procurement and disposal proceedings for a period of three years for failing to honour the bid securing declaration.

4.1.9 Eligibility documentation: Ensure that you meet all the eligibility requirements in accordance with ITB. Some of the eligibility documents that are usually required to be submitted by bidders include the following:

- (i) Trading Licence;
- (ii) Certificate of Incorporation/Registration and any other relevant registration documents;
- (iii) Income Tax Clearance Certificate;
- (iv) Power of Attorney authorizing the signatory of the bid/proposal to submit the bid/proposal;
- (v) Manufacturer's Authorisation;
- (vi) Evidence of financial capability such as audited accounts; and
- (vii) Evidence of technical and production capability such as registration certificates of the required personnel, final certificates of completed projects, client reference letters, technical literature to support supplies etc.

4.1.10 Evaluation: Detailed information on evaluation methodologies for bids/proposals is contained in the PPDA (Evaluation) Regulations, 2014.

The evaluation of bids is conducted in three (3) sequential stages. When bids are received, they go through all the stages of evaluation and a Best Evaluated Bidder (BEB) is only determined after the last stage of financial comparison. The SBD contains a section on the evaluation criteria that shall be used by the PDE in evaluation of bids and these include the following:

- (i) A **preliminary examination** is conducted to determine the eligibility of bidders and the administrative compliance of bids/proposals received as applicable. The minimum eligibility requirements which are that-
- a) The bidder has the legal capacity to enter into contract
 - b) The bidder is not-
 - a. Insolvent;
 - b. in receivership;
 - c. bankrupt; or
 - d. being wound up.
 - c) The bidder's business activities have not been suspended;
 - d) The bidder is not the subject of legal proceedings for any of the circumstances mentioned in paragraph (i) above;
 - e) The bidder has fulfilled his tax and NSSF obligations;
 - f) The bidder has no conflict of interest in relation to the subject of the procurement; and
 - g) The bidder has not been suspended by the Authority from participating in public procurement and disposal proceedings.

The above eligibility requirements are included in the solicitation document and whenever necessary, the Entity shall require bidders to avail documentary evidence to prove the above eligibility requirements. Such documentary evidence shall include:

- a) A copy of the bidder's Trading license or equivalent (*this should be valid for the year in which the bid/proposal is submitted*);
- b) A copy of the bidder's Certificate of Registration or equivalent;
- c) A copy of the bidder's income tax clearance or equivalent (*this may be a transactional tax clearance addressed to an Entity for a specific tender in which the bidder intends to participate or an Annual Tax Clearance which is applicable throughout the year may be provided which implies that the bidder has an excellent record of compliance discipline and with no outstanding tax liabilities as a tax payer*);
- d) Registered Power of Attorney;
- e) A statement that the bidder has no conflict of interest in the subject of the procurement; and
- f) For Joint ventures, the above documentation is required from each member of the joint venture.

Under **Administrative Compliance**, an evaluation is conducted to confirm that the following documents and technical documentation requested have been provided and to determine the completeness of each document submitted:

- a) The Bid/Proposal Submission Sheet including a brief description of the supplies, works and related services offered, the price of the bid/proposal and the period of bid/proposal validity;

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- b) The Price Schedule;
 - c) A written confirmation of authorization to commit the bidder/a registered Power of Attorney; and
 - d) A bid security/ bid securing declaration (if applicable) in the correct form and amount.
- (ii) A **detailed technical** evaluation of the bids/proposals that have passed the preliminary evaluation stage to determine;
- a) The responsiveness of the bid/proposal to the terms and conditions in the solicitation document; and
 - b) The technical responsiveness of bids/proposals to the statement of requirements or the relative quality of bids/proposals received. Technical evaluation shall be conducted to confirm that all requirements specified in the Statement of Requirements have been met without any material deviation or reservation.
- (iii) A **financial comparison** shall be conducted to evaluate each bid/proposal that has passed both the preliminary and technical evaluation stages of the evaluation process, to compare costs of the eligible, compliant, responsive bids/proposals received and to determine the best evaluated bid/proposals. Financial comparison may require consideration of factors other than costs in addition to the bid/proposal price quoted.
- To financially compare bids/proposals, a Procuring and Disposing Entity shall:
- a) Determine the bid/proposal price;
 - b) Correct any arithmetic errors;
 - c) Apply any unconditional discounts offered;
 - d) Make adjustments for any non-material, non-conformities and omissions;
 - e) Apply non-cost factors such as delivery terms;
 - f) Convert all bids/proposals to a single currency for comparison purposes only;
 - g) Apply any margin of preference in accordance with Regulation 29 of the PPDA (Procuring and Disposing Entity) Regulations, 2014;
 - h) Determine the total evaluated price of each bid/proposal; and
 - i) Preference scheme requirements.
- (iv) **Post-Qualification** (*where applicable*) of the best evaluated and compliant bidder to ensure that he/she is qualified to perform the contract satisfactorily.
- (v) For the evaluation methodology and criteria of consultancy services with or without expressions of interest (EOIs), the PPDA (Procurement of Consultancy Services) Regulations, 2014 must be read and understood by bidders.

4.1.11 Bid/Proposal signature: Ensure that the bid/proposal is properly filled, signed and complete. In addition, ensure that all documents, interlineations, erasures or over

writing are initialled. Where the bidding document requires the signatory to the bid/proposal to provide documentary evidence of authorisation to submit the bid/proposal this condition must be fulfilled. Please note that failure to sign a bid/proposal or to provide documentary evidence on authorisation to submit a bid/proposal may result in the disqualification of your bid/proposal.

- 4.1.12 **Due Diligence on documents to be submitted:** Bidders have the responsibility of reading carefully the bidding documents for each particular tender and to ensure that their bids/proposals comply with the provisions of such documents.

Bidders are advised to ensure that the documents submitted as part and parcel of the bid/proposal are authentic. Bidders should ensure that they cross check with parties responsible for issuing documents to be submitted as part of their bids are authentic, for example bank securities, trading licences, income tax clearance certificates etc. to confirm their authenticity. By submitting documents as part of a bid/proposal, a bidder shall be taken to have uttered such documents. Utterance of forged documents could result in suspension of a bidder.

- 4.1.13 **Bid/Proposal submission:** Ensure that your bid/proposal is properly addressed and sealed and the required number of copies are submitted. Ensure that your bid/proposal is submitted at the **right time** and at the **correct address**. The time and place for submission of bids/proposals will be specified in the solicitation documents and you must ensure submission of your bid/proposal before the stated deadline. Please note that under the PPDA law a late bid/proposal cannot be accepted and therefore any failure to submit a bid/proposal on time even by only a few minutes will lead to rejection of your bid/proposal.

Failure to submit a signed Bid/Proposal Submission Sheet, as applicable, and any missing material information required therein shall constitute valid grounds for rejection of a bid/proposal.

Signed



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Chairman of the Board of Directors



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Executive Director of the Authority

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY