

GUIDELINES ISSUED BY THE ANAMBRA STATE PUBLIC PROCUREMENT AGENCY (ASPPA) ON THE CONDUCT OF PUBLIC PROCUREMENT ACTIVITIES IN ANAMBRA STATE NIGERIA AS A RESULT OF THE COVID-19 PANDEMIC LOCKDOWN AND OTHER EMERGENCIES.

1. Introduction.

- 1.1 Following the outbreak of the New Corona Virus (COVID-19) pandemic, global socio-economic activities have greatly reduced and this has affected the revenues from oil resources, taxes and other streams. Anambra State and other sub-nationals was not spared as the State's capacity to implement fully the Anambra State 2020 Appropriation Law has been adversely affected.
- 1.2 Due to the imminent threat to lives posed by the COVID-19 pandemic and to ramp up the State's capacity to address this crisis, public-spirited individuals and corporate organizations have made reasonable financial contributions to support the fight against this pandemic. In addition, some Development Partners have indicated willingness to provide budgetary support to enhance the implementation of the Anambra State 2020 Appropriation Law in the face of dwindling revenue, particularly as it affects the State's response to the COVID-19 pandemic.
- 1.3 In view of the above, there is need for all Procuring Entities in the State, that will participate in procurement that respond to the COVID-19 pandemic, to ensure transparency, accountability, value-for-money and integrity 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, as set out in the Anambra State Public Procurement Law of 2011, Amended in 2016 and 2020.
- 1.4 Consequently, the Anambra State Public Procurement Agency pursuant to the provisions of Section 7 of the Anambra State Public Procurement Law of 2011, and mindful of its oversight responsibilities as the Regulator of Public Procurement in the State, hereby issues Guidelines to facilitate the necessary changes to the conduct of public procurement activities required as a result of the COVID-19 pandemic/lockdown which constitutes Emergency Procurement. These guidelines are also applicable to future emergency situations, aside of the COVID-19 pandemic.
- 1.5 These guidelines are specifically on procurement-related activities and do not offer any general or health-specific guidance. The Anambra State Ministry of Health and the National Centre for Disease Control (NCDC) Guidelines on Corona Virus should be strictly observed.

2. Preparation of Emergency Procurement Plans.

- 2.1 All Procurement Entities are to prepare Procurement Plans for all projects that specifically respond to the COVID-19 pandemic. These Plans should be uploaded into the Anambra State Public Procurement Agency Portal, which is hosted by the Anambra State website:

www.anambrastate.gov.ng. 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.

- 2.2 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.
- 2.3 For public procurement activities as a result of the COVID-19 pandemic/lockdown, the requirement of publishing the opportunity on the State/PPA website alone is enough under the current circumstances. However, when practicable, the advertisement can be published in National Dailies of wide circulation in addition to the website of the State/PPA.

3. Procurement Implementation.

- 3.1 Sections 44 & 45 (1-4) of the Anambra State Public Procurement Law 2011, 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.
- 3.2 In line with the provisions of Section 45 of the Anambra State Public Procurement Law, 2011, a Due Process “No Objection” is not required prior to embarking on an emergency procurement. Rather, whenever an emergency 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. Contracts awarded under these circumstances shall be reported to the PPA promptly, not later than four weeks after award of such contract.
- 3.3 Notwithstanding the above, Procuring Entities have the responsibility to ensure that the Contractor to be engaged to carry out any emergency work, possesses the requisite technical and financial capacities to undertake the project. In addition, Procuring Entities should ensure that the procurement is handled with expedition along the principles of accountability, transparency and value-for-money.
- 3.4 Having highlighted the position of the State PPA as it concerns Emergency Procurements that respond to the COVID-19 pandemic, the Guidelines are as follows:

(a) Procurement Planning:

- (i) Procuring Entities shall identify the goods, works and services to be procured;
- (ii) Procuring Entities shall prepare Procurement Plans based on the identified needs and forward these plans to the State PPA 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 not later than four weeks after award of such contracts.

(b) Request for Bids/Quotations:

- (i) For limited bidding and direct contracting, Procurement Entities shall identify firms that possess the requisite technical and financial capacities to carry out the procurement;
- (ii) Bids/quotation can be sent by email; and email address for submission must be a working and secure email address. *The email address must be an email address with a domain name of the Procuring Entity or Ministry on an email server which the logins can be audited. If this is not available, then, a dedicated email address with the Procurement Department/Unit name should be used.* The email address for submission should be stated in the Request for Bids/quotations;
- (iii) Bidders should also be able to download the bidding documents/request for quotations from the State's website (and/or PPA's Portal) with free access;
- (iv) Procuring entities should consider the extension of bid submission deadline if bid/quotation submission is impacted by the emergency situation.

(c) Submission of Bids / Quotations:

- (i) Bidders can submit bids as attachments to email;
- (ii) The bids/quotation must be read-only and password protected;
- (iii) Procuring Entities must acknowledge receipt of submitted bids via email.

(d) Bids/Quotations Opening:

- (i) In the bidding document, bidders will be requested to send password to their bids within one hour after the submission deadline;
- (ii) Procuring Entities shall acknowledge receipt via email of the password for the bids/quotations from the bidders;
- (iii) Bids/quotations shall be opened electronically only after the submission deadline;
- (iv) Bid/quotation opening records must be sent to all bidders via email who submitted bids/quotations immediately after bid opening. Video recording of the bid/quotation opening is mandated
- (v) Bid registers, bid return sheets and other relevant documents required by the State Public Procurement Agency should be kept by the Procuring Entity as part of the bid opening records.

(e) Pre-bid Meeting (if included in the Bidding Document):

- (i) Should be held virtually. Connection details should be forwarded to all the firms that have obtained the bidding documents and be given sufficient advance notice to enable them plan for their attendance;
- (ii) Bidders who intend to attend can also be requested to contact Procuring Entities by email and request for the connection details.

(f) Bid Security:

- (i) Procuring Entities are advised to request for "Bid Securing Declaration" instead of "Bid Security" (as required under 28 (2) of the Anambra State Public Procurement Law 2011), for small procurement packages and where extremely necessary, also for some large packages.

(g) Submission of Original Documents:

- (i) Request for submission of certain documents, for instance: Bid Submission Forms; Bid Securing Declarations; Power of Attorney; Manufacturers' Authorizations; etc. should also state that copies of these documents will be treated as if they are originals during the COVID-19 emergency.

(h) Bids/Quotations Evaluation:

- (i) Bids/Quotations evaluation can be carried out virtually/online with the members of Evaluation Committee;
- (ii) For procurement of goods, works and non-consulting services, evaluation can be conducted virtually.

(i) Contract Award:

- (i) 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;
- (ii) Details of the award of all COVID-19 Contracts should be forwarded to the State PPA (Public Procurement Agency) not later than 10 working days after award has been made. This information should be transmitted to the ASPPA official email address procurement@anambrastate.gov.ng and should be signed by the Accounting Officer of the Procuring Office. The hard copy shall be forwarded to the ASPPA at the earliest possible time, not less than two weeks after execution. The details should include the name of the Contractor, description of the project, contract sum and duration of the contract;
- (iii) All COVID-19 / Emergency Contracts should be handled expeditiously but along the principles of accountability, due consideration being given to the gravity of each emergency.

(j) Publication

- (i) For all Emergency Procurement Contracts, the ASPPA shall on quarterly basis, publish on its Portal, the details of Contracts awarded which shall include the name of the Contractor, description of the contract, contract sum and duration of the contract.

(k) Contract Signing:

- (i) Depending on the restrictions on movement, the contract can be executed at a meeting of both representatives, in which case social distancing will be observed;
- (ii) Alternatively, one copy of the pdf contract with the latest Adobe Acrobat Reader (<https://get.adobe.com/reader/otherversions/>) with an option to "Signature and Initial" could be signed and initialed by both parties and sent by email. The final signed contract must be printed, scanned and shared with the bidder by email; or
- (iii) The duplicate copies of the contract are signed simultaneously by both parties and pdf copies exchanged by email. The process is as follows:

- (1) On finalizing the contract, each party prints a copy and signs according to their procedural requirements;
 - (2) Each party scans the signed contract and emails as a pdf to the other party;
 - (3) On receipt of the email, each party downloads the contract, prints a hard copy and signs;
 - (4) Each party then scans the contract (now signed by both parties), and sends, as a pdf, to the other party.
- (iv) An exchange of emails with properly executed pdf contracts shall be evidence of contract execution.

(l) Contract Implementation:

- (i) Activities within the contract that are not affected by restriction of movement or physical gathering of people should continue;
- (ii) If otherwise, a force majeure should be declared in accordance with the provisions of the contract;
- (iii) For consultancy services for the supervision of civil works or similar contracts, the employer should declare a force majeure;
- (iv) To avoid double handling and to reduce the logistic value chain, it may be necessary in some instances for Store Officers and Stock Verifiers of the Procuring Entities to be deployed to locations where specialized 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.

4. Conclusion.

4.1 All State Ministries, Departments and Agencies (MDAs) should note that the ASPPA (State Public Procurement Agency) is working in collaboration with the Ministry of Finance; Ministry of Economic Planning, Budget and Development Partners; the Office of the State Accountant General; and the Anambra State SFTAS (State Fiscal Transparency, Transparency, Accountability and Sustainability) Steering Committee, to ensure that these Guidelines are properly implemented. Consequently, any procurement that does not substantially comply with these Guidelines, shall not be able to access funds from the State Government.

4.2 Procurement Entities can contact the **State PPA** for further clarifications via its email procurement@anambrastate.gov.ng

Signed:

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(ASPPA)