

# **DELTA STATE PUBLIC PROCUREMENT COMMISSION LAW**

## **PART VI: Organization Of Procurement**

### **Approving Authority**

18) Subject to the monetary threshold and prior review threshold for procurement in this Law as may from time to time be determined by the Council, the following shall be the approving authority for the conduct of public procurement:

- (i) State Tenders Board
- (ii) the Tender Board

### **Procuring entity/ Procurement Plan**

19) Subject to regulations as may be made by the Commission under the direction of the Council, a procuring entity shall plan its procurement by:

- (i) preparing the needs assessment and evaluation;
- (ii) identifying the goods, works or services required;
- (iii) carrying appropriate market and statistical surveys and on that basis prepare analysis of the cost implications of the proposed procurement;
- (iv) aggregating its requirement whenever possible, both within the procuring entity and between procuring entities, to obtain economy of scale and reduce procurement cost;
- (v) integrating its procurement expenditure into its yearly budget;
- (vi) prescribing any method for effecting the procurement subject to the necessary approval under this Law; and
- (vii) ensuring that the functions of the procuring entity as stipulated in this section shall be carried out by the Procurement Planning Committee. -

## **Regulating implementing Procurement Plan**

20) Subject to regulations as may from time to time be made by the Commission under direction Of Council, procuring entity shall, in Procurement implementing its procurement plans:

- (a) advertise or solicit for bids (open Or selective bids) in adherence to this Law and guideline as may be issued by the Commission;
- (b) receive, evaluate and make a selection of the bids received in adherence to this Law and guidelines as may be issued by the Commission;
- (c) obtain approval of the approving authority before making an award;
- (d) debrief the bid losers on request;
- (e) resolve complaints and disputes if any;
- (f) obtain and confirm the validity of any performance guarantee;
- (g) obtain a "Certificate of "No Objection" to Contract Award" from the Commission within the prior review threshold as stipulated in section
- (h) execute all contract agreements of all Government Ministries, Agencies, Departments, Parastatals, Commissions, etc. through the State Ministry of Justice;
- (i) execute all contract agreements as shall be prepared by the Ministry of
- (j) Justice; and
- (k) announce and publicize the award in the format stipulated by this Law and guidelines as may be issued by the Commission.

## **Accounting Officer of the Procurement**

**21) (1)** The Accounting Officer of a procuring entity shall be the person charged with line supervision of the conduct of all procurement processes; in the Entity case of ministries, the Permanent Secretary and in the case of extra-ministerial departments or parastatals, the Director-General, Executive Secretary or officer of co-ordinate responsibility; and in the House and Judiciary, the Clerk of the House and the Chief Registrar, respectively;

(2) The Accounting Officer of every procuring entity shall have overall responsibility for the planning of organization of tenders, evaluation Of tenders and execution of all procurements and in particular shall be responsible for:

- (a) ensuring compliance with the provisions of this Law by his entity and liable in person for the breach or contravention of the law or regulation made hereunder;
- (b) constituting the Procurement Committee;
- (c) ensuring that adequate appropriation is provided specifically for the procurement in the. State budget;
- (d) integrating its entity's procurement expenditure into its yearly budget;
- (e) ensuring that no reduction of-values or splitting of procurement is carried out such as to evade the use of the appropriate procurement method;
- (f) constituting the Evaluation committee if so directed; and
- (g) liaising with 'the Commission to ensure the implementation of its regulations.

## **Procurement Planning Committee,**

22. (1) For each financial year each procuring, entity shall establish a Procurement Planning Committee,

(2) The Procurement Planning Committee shall consist of:

(a) the Accounting Officer of the procuring entity or his representative who shall be the Secretary

(b) a representative of:

(i) the procurement unit of the procuring entity who shall be the Secretary;

(ii) the unit directly in requirement of the procurement;

(iii) the financial unit of the procuring entity;

(iv) the planning, research and statistics unit of the procuring entity;

(v) technical personnel of the procuring entity with 'expertise in the subject matter for each particular procurement; and

(vi) the legal officer assigned to the procuring entity

## **Tenders Board**

23. (1) There is hereby established by this Law:

(a) The State Tenders Board;

(b) In each procuring entity', the Tenders Board.

(2) The Council shall constitute the State's Tender Board..

(3) Subject to the approval of the Council, the Commission shall, from time to time, prescribe guidelines for the membership of the Tenders Board.

(4) Tenders Board shall be responsible for the award of procurements of goods, works and services the threshold set in the regulations.

(5) In all Cases where there is a need for pre-qualification, the Chairman Tenders Board shall constitute a technical evaluation sub—committee which shall be made

up of professional staff of the procuring entity and the Secretary of the Tenders Board and who shall be the Chairman of the Evaluation Sub-Committee.

(6) The decision of the Tenders Board shall be transmitted to the Commission for certification.

**24. (1)** Where a procuring entity has made a decision with respect to the qualifications of suppliers, contractors or service providers by requesting interested persons to submit applications, to pre-qualify; it shall set out precise criteria upon which it seeks to give consideration to the applications and in reaching a decision as to which supplier, contractor or qualifies, shall apply only the criteria set out in prequalification documents and no more.

(2) Procuring entities shall supply a set of prequalification documents to each supplier, contractor or consultant that request them if the procuring entity deem it necessary and the price that a procuring entity may charge for the prequalification documents shall reflect only the cost of printing and provision to suppliers or contractors and consultants.

(3) The prequalification document shall include:

- (a) instructions to prepare and submit prequalification application;
- (b) a summary of main terms and conditions required for the procurement Contract to be entered into as a result of the procurement proceedings;
- (c) any document evidence or other information that must be suppliers; contractors or consultants to demonstrate their qualifications;
- (d) the manner and place for the submission of application to prequalify and the deadline for the submission, expressed as a specific date time which allows sufficient time for suppliers, contractors consultant to prepare and submit their applications taking into account the reasonable need of the procuring entity; and

(e) any other requirement that maybe established by the procuring entity in conformity with this Law and procurement regulations to pre-quality and to the prequalification proceedings.

(4) the procurement entity shall respond to any request by a supplier, contractor or consultant for clarification of the prequalification documents if the request is made at least ten days before the deadline for the submission of application to pre-qualify

(5) The response by the procuring entity shall be given within a reasonable time and in any event within a period of seven working days so as to enable the supplier, contractor or consultant to make a timely submission of its application to pre-qualify.

(6) The response to any request that might reasonably be expected to be of interest to other supplier, contractor or consultant shall, without identifying the source of the request, be communicated to other suppliers or contractors or consultants provided with the prequalification documents by the procuring entity.

(7) A procuring entity shall promptly notify each supplier, contractor or consultant which submitted an application to pre-qualify of whether or not it has been pre-qualified and shall make available to any member of the general public upon request, "the names of the suppliers, contractors, or consultants who have been pre-qualified.

(8) Suppliers, contractors or consultants who have been pre-qualified may participate further in the procurement proceedings.

(9) The procuring entity shall upon request communicate to suppliers, contractors or consultants who have not been pre-qualified, the grounds for disqualification, if necessary

(10) The procuring entity may if necessary require a supplier, contractor or service provider who has been pre-qualified to demonstrate its qualifications again in

accordance with the same criteria used to pre-qualify the supplier, contractor, or consultant.

**(11)** The procuring entity shall promptly notify each supplier, contractor or service provider; requested to demonstrate its qualifications again whether or not the supplier, contractor, or consultant has done so to the satisfaction of the procuring entity.

**(12)** The procuring entity shall disqualify any supplier, contractor or service provider who fails to demonstrate its qualification again if requested to do so.

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