

DELTA STATE PUBLIC PROCUREMENT COMMISSION LAW

PART VIII - SPECIAL AND RESTRICTED METHOD OF PROCEREMENT

Two Stage Tendering

40. (1) Notwithstanding the provision of this Law, the Commission may issue Certificate of No Objection upon conditions hereinafter prescribed.

(2) A procuring entity shall engage in procurement by two-stage tendering:

(a) where it is not feasible for the procuring entity to formulate detailed specifications for the goods or works or in the case of service, to identify their characteristic and where it seek tenders, proposals or officers on various means of meeting its needs in order to obtain the most satisfactory solution to its procurement needs.

(b) where the character of the goods or works are subject to rapid technological advances; where the procuring entity seeks to enter into a contract for research, experiments, study or development; except where the contract includes the production of goods in sufficient quantities to establish their commercial viability, or recover research and development costs; where the procuring viability, or recover research and development concerned with state or national security and determines that the selection method is the most appropriate method of procurement; or

(c) where the tender proceedings have been utilized but were not successful of the tenders were rejected in an open competitive bid proceeding and the

procuring entity considers that engaging in new tendering proceedings will not result in the procurement contract, by the procuring entity.

(3) The provision of this Law as regards the process for open competitive bidding shall apply to two stage tender proceeding to the extent that provisions vary from the sections.

(4) The invitation documents:

(a) shall call upon suppliers or contractor so submit in the first stage, of the two stage tender proceedings, initial tenders which contains their proposal without a tender price,

(b) may solicit proposals that relate to technical quality or other characteristics of the goods, works or services as well as contractual terms and conditions to supply and may stipulate the competence and technical qualification of the suppliers or contractors

(5) The procuring entity may, in the initial stage engage in negotiations with any supplier or contractor whose tender has not been rejected under an open competitive bidding procedure with respect to any aspect of its tender.

(6) In the next stage and if necessary in subsequent stages of the tender proceedings, the procuring entity:

(a) shall invite suppliers or contractors whose tenders have not been rejected to submit final tenders with prices on a single set of specifications;

(b) may, in formulating the specifications, delete or modify any aspect of the technical or quality characteristic of the goods, works or services to be procured together with any criterion originally set out in these documents evaluate and compare tenders and ascertain the Successful tenders;

(c) may add new characteristics or criteria that conform with this Law;

(d) shall communicate to suppliers or contractors in the invitation to submit firm tenders, any deletion, modification or addition; and

(e) may permit a supplier Or contractor who does not wish to submit a final tender to withdraw from the tendering proceedings.

(7) The final tenders shall be evaluated and compared in order to ascertain-the successful tenders as defined in an open competitive bid.

Selective Tendering

(1) Subject to the approval by the Commission, a procuring entity may for reasons of economy and efficiency engage in procurement by means of selective tendering if;

(a) the goods, works or services are available only from a limited number of suppliers or contractors; or

(b) the time and cost required to examine and evaluate a large number Of tenders is disproportionate- to the value of the goods, works or services to be procured.

(2) Where a procuring entity engages in selective tendering on the basis that:

(a) the goods, works and services are available only from a limited number of suppliers or contractors, it shall if necessary invite tenders from all the suppliers and contractors who can provide the goods, works or services; and.

(b) the time and cost required to examine and evaluate a large number of tenders is disproportionate to the value of the goods, works or services, it

shall if necessary select in a non-discriminatory manner the number of suppliers or contractors to ensure effective competitive biddings;

(3) For the purpose of subsection (2), the procuring entity shall cause a notice of the selected tendering proceedings to be published in the procurement journal.

(4) The provisions of this Law regarding the open competitive bidding procedure shall apply to the selective tendering proceedings except to the extent that those provisions are varied by these sections.

Request for Quotations.

42. (1) A procuring entity may carryout procurements by requesting for quotations from suppliers or contractors where the value of the goods or works to be procured does not exceed a sum that shall be in the procurement regulation.

(2) Generally, quotations shall be obtained from three unrelated contractors or suppliers.

(3) Each contractor or supplier from whom a quotation is requested shall:

(a) be informed whether any factors other than the charges for the goods, works or services themselves, such as any applicable transportation and insurance charges, customs duties and taxes are to be included in the price; and give only one quotation and shall not be allowed to change or vary

(b) give only one quotation and shall not be allowed to change or vary the quotation.

(4) No negotiation shall take place between a procuring entity and the contractor or supplier with respect to a quotation unless it is deemed necessary and expedient, taking the prevailing circumstances into consideration.

(5) The procurement shall be awarded to the qualified contractors or suppliers that gives the lowest priced responsive quotation.

(6) Where the total value of the procurement is not more than the sum that shall be set out in the regulation, the procurement entity may not obtain the Commission's approval.

Direct Procurement

43. (1) A procuring entity may carry out any emergency procurement where:

(a) goods, works or services are only available from a particular supplier or contractor if a particular supplier has exclusive rights in respect of the goods, works or services and no reasonable alternative or substitute

(b) there is an urgent need for the; goods, works or services and engaging in tender proceeding any other method of procurement is impractical due to unforeseeable circumstance giving rise to the urgency which is not result of dilatory conduct on the part of the procuring entity;

(c) owing to a catastrophic event; there is an urgent need for the goods,, works or services, making it impractical to use methods of procurement because of the tine involved in using those methods;

(d) a procuring entity which has procured goods, equipment, technology or services from a supplier determines that:

(i) additional supplies need to & procured from that supplier or contractor because of standardization;

(ii) there is a need for compatibility with existing goods; equipment technology services, taking into account the effectiveness of the original procurement in meeting the need of the procurement entity;

(iii) limited size of the proposed procurement in relation to the original procurement provides justification;

(iv) the reasonableness of the price and; the unsuitability of alternatives to the goods or services in question merits the decision.

(e) the procuring entity seeks to enter into a contractor for research, experiment, study or development, except where the contract' includes the production goods in quantities to establish commercial viability or recover research and development costs, or

(f) the procuring entity applied this Law for procurement that concerns national security and determines 'that single-source procurement is the most appropriate method of procurement:

(2) The procuring entity:

(a) may procure the, goods, works, or services by inviting, a proposal or price quotation from single supplier or contractor;

(b) shall include in the record a, statement of its grounds for the decision and circumstances I justification of single source procurement

Emergency Procurement

44, (1) A procuring entity may for the purpose of this law, carry out an emergency procurement where;

(a) the State is either seriously threatened by or actually confronted with a disaster, catastrophe, war, insurrection or act of God.

(b) the condition or quality of goods, equipment, building or publicly owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them, in their actual value or usefulness;

(c) or a public project may be seriously delayed for want of an item of a minor value.

(2) In an emergency situation; a procuring entity may engage in direct contracting of goods, works und services.

(3) All procurement made under emergencies' expeditiously but along the principles of accountability due consideration being given to the gravity of each emergency.

(4) Immediately after the cessation of the situation warranting any emergency procurement, the procuring entity shall file a detailed report thereof with the commission, which shall verify same and if appropriate issue a certificate of 'No Objection'.