

GUIDELINES FOR THE AWARD OF CONTRACTS

Introduction

The State Government is committed to ensuring increasing higher standards of compliance with existing regulations and procedures for tenders and award of contractors.

This process will ensure a more efficient service delivery and increased value added in the development of limited resources. It will also lay the grounds for the proposed enactment of a Public Procurement Law to regulate contract award and administration in the State.

However, as a precursor to the takeoff of this Law, the following standard procedures and regulations have been updated for full compliance by all MDA's in the award of contracts in the State:

1.0 Contract Awarding Bodies

The following contract awarding bodies are recognized and their levels of authorization/composition are as follows:

- i. **State Tenders Board (STB)**: The State Tenders Board is essentially a Committee of the State Executive Council. The appointment of the Chairman and Members of the State Tenders Board is at the discretion of His Excellency, the Governor, but the mandatory members are Hon. Attorney General/Commissioner for Justice, Hon. Commissioner for Works and Infrastructure, Hon. Commissioner for Economic Planning and Budget and Hon. Commissioner for Finance. It shall have the responsibility of awarding all Contracts valued at N10 million and above.
- ii. **Ministerial Tenders Board (MTB)** – The Ministerial Tenders Board shall have as its Chairman, the Permanent Secretary of the Ministry/Department/Agency (MDA), and all Directors or Heads of Directorates, as well as representatives of the Ministries of Finance, Justice, work & Infrastructure, Economic Planning and Budget. It shall award all Contractors valued below N10 Million. The quorum for the MTB meeting shall be formed by at least half of the

Directors/Head of Directorates and three of the external mandatory agencies.

- iii. **Tenders Board for Parastatal Organizations** – The Tenders Board for Parastatal Organisations shall have as its Chairman, the Chairman of the Governing Council/ Board, Two Board Member (on rotational basis), the General Manager of the Parastatal, Heads of Finance and Administration, Head of Accounts, Heads of Department/ Directorate involved in project(s) being considered, as well as representatives of the Parastatals Monitoring Office and the Supervising Ministry. It shall award all Contracts valued below N10 Million.

A quorum for the purpose of convening a meeting of the Board shall be formed with five (5) members among whom must be the Chairman, one member of Governing Council, the General Manager/C.E.O of the Parastatal and the representative of either the Supervising Ministry or Parastatals Monitoring Office.

2.0 **Procedures and Guidelines for Award of Contracts by Tenders Boards**

a. **Procurement Plan**

All MDAs must at the beginning of each financial year submit a detailed procurement plan to the Ministry of Economy Planning and Budget (MEPB) indicating priority projects and programmes as approved in the budget. The MEPB shall in conjunction with the Ministry of Finance come up with a global procurement plan for the year which must be adhered to by all Government Agencies to eliminate uncoordinated and haphazard public spending.

b. **Project Initiation/Execution**

All memoranda leading to the convening and presentation of projects for consideration of Tenders Board must:

- i. Clearly describe the project,
- ii. Contain inputs of all Ministries relevant to the project,
- iii. Show evidence that all aspects of internal preparation for project implementation have been completed Viz: Feasibility

Studies, Specification of Work items, Bill of Quantities, Project Design, Duration of Project (i.e. Commencement and Completion), Site/Survey plan Ministry's and or consultant's appraisal of Contractors bid, proposed terms of payment/cash flow plan and quality control,

- iv. Authorization for the execution of project by approving authority as may be approved from time to time,
- v. In case of the State Tenders Board projects, Tenders Notification Form (TNF) must be duly completed and forwarded to the STB Secretariat, at least, one week before adverts are publicized.

c. Advertisement of Tenders

Tenders for all contracts shall be by **Open/Competitive Bidding** except as may be otherwise approved and the Secretariat of the relevant Tenders Board shall be duly notified of all procurement plans before advertisements are publicized. The following media/channels shall be used in the advertisement of contracts with following values:

Contract Value	Advertisement Media
N500,000 – N5m	Notice Board of Procuring Agencies
N5m – N10m	Notice Board, Alausa Alert and One (1) National Newspaper
N10m – N50m	Notice Board, Alausa Alert, One (1) National Newspaper, LASG Website
N50m and above	Notice Board, Alausa Alert, two (2) National Newspaper, LASG Website

The MTB in each Ministry/Agency shall be responsible for placement of advertisements.

d. Selective Tendering

Selective Tendering shall be resorted to only in cases of extreme urgency or specialization and with the express consent of the approving authority for the threshold. It will therefore only be applicable where open tendering is not reasonably practicable or advisable.

e. **Opening of Tenders**

All Tenders are to be submitted to the Secretariat of the appropriate Tenders Board not later than the date indicated in the advertisement. Opening of Tender Documents shall be done publicly under the supervision of the Chairman of the Tenders Board and the Date and Time for the opening shall be clearly indicated in the advertisement. The bidders or their representatives and members of the public may be invited to attend.

f. **Evaluation of Tenders**

Where necessary, Tenders Boards shall refer submitted bid documents to technically competent experts for the appraisal and prequalification of contractors with a view to determining the technical, managerial and financial capacity of prospective bidders for a project. Award of Contract **shall be made to the best evaluated tender that offers the lowest price.**

g. **Upward Review of Contracts**

Ministries/Agencies shall not entertain any upward review of contract sums except where such reviews arise as a result of Government fiscal measures or a change in the quantum of work or due to other genuine factors. In the event of a need for Upward Review, the written approval of the approving authority must be obtained indicating the initial and revised contract sums, actual amount paid to the contractor and outstanding amount. Copies of previously executed Agreements must be forwarded to the Ministry of Justice to facilitate any addendum or revision of Contract.

h. **Advance and Balance Payments**

The release of Advance Payment shall only be effected upon submission of an Advance Payment Bank Guarantee or Bond after verification by the Lagos State Ministry of Justice. The balance of Contract payment should not be paid to any contractor without the parties having duly executed the agreement and copies of same returned to the Ministry of Justice duly stamped.

i. Monitoring of Projects

Ministries/ Agencies are to clearly indicate the names and designations of Project Officers on the Tender Notification Form and to ensure that they forward a quarterly status report to the STB Secretariat. Executing Ministries must promptly bring to the attention of the Board any observed problems militating against timely completion of a project.

j. Taxes

Ministries/Agencies should note that all bids and quotations must include relevant taxes including; Lagos State 1% Development Levy, 5% Value Added Tax (VAT) and note that 5% Withholding Tax payable by the contractor should not be a separate charge or item in the quotation of the Contractor.

k. Registration of Contractors

A detailed information as well as copy of certificate of incorporation of the contracting firms must accompany all bid documents. All firms and corporate bodies tendering for contracts with the State Government are to show evidence of registration with the State Tenders Board and are to attach this evidence to all Tender Documents.

l. Tenders Evaluation Checklist

A checklist of standard requirements that would guide contract awarding agencies to be substantially responsive to extant rules and regulations guiding the award of contract is available for download.

m. Budgetary Provision and Cash Backing

MDAs are enjoined to ensure that the Relevant Votes of Charge (RVOC) have sufficient balance before seeking approval for execution. Attention is drawn to section 22(4) of the Corrupt Practices and Other Related Offences Act 2000 which prescribes three (3) years imprisonment and a fine of N100,000 (One hundred thousand Naira) for any public officer who awards, or signs any contract without budgetary provision, approval and cash backing.