



EMERGENCY GUIDELINES FOR THE  
PROCUREMENT OF GOODS, WORKS  
AND SERVICES BY MINISTRIES,  
DEPARTMENTS AND AGENCIES IN  
CROSS RIVER STATE FOR COVID-19 AND  
OTHER EMERGENCY SITUATIONS

CROSS RIVER STATE DUE PROCESS AND PRICE  
INTELLIGENCE BUREAU  
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# Cross River State Due Process and Price Intelligence Bureau

## EMERGENCY GUIDELINES FOR THE PROCUREMENT OF GOODS, WORKS AND SERVICES BY MINISTRIES, DEPARTMENTS AND AGENCIES IN CROSS RIVER STATE FOR COVID-19 AND OTHER EMERGENCY SITUATIONS

*(These Procurement Guidelines being released by Cross River State Due Process and Price Intelligence Bureau give information and guidance on public procurement regulations in Cross River State and responding to the coronavirus, COVID-19)*

### 1.0 INTRODUCTION

1.1 Since the outbreak of COVID-19 pandemic globally, the global socio-economic activities have practically ground to a halt due to lockdown and stay at home directive of most national and sub –national governments including Nigeria. This had affected global supply chain systems and its impact on procurement function is huge.

1.2 As expected many Procuring Entities must continue to carry out procurement functions in order to respond to the needs of the time, particularly in helping the coordinated response of defeating the global pandemic and reducing its impact. Procurement Entities may need to procure goods, services and works with extreme urgency, which is permissible under the current Cross River State Due Process and Price Intelligence Bureau for Due Process and Price Intelligence Bureau for Public Procurement Law (2020).

1.3 The Law provides the general principles and rules governing public procurement.

Accordingly, subject to Section 12 (a) of the Law, Cross River State Due Process and Price Intelligence Bureau for Due Process and Price Intelligence Bureau for Public Procurement Law now gives guidelines here under enumerated to all Procuring Entities in Cross River State in order to respond to COVID 19 pandemic which is an emergency situation.



These Guidelines contain step-by-step procedures to assist Procuring Entities to undertake public procurement in accordance with the Law.

## 2.0 PURPOSE OF THE GUIDELINES

2.1 The purpose of these Guidelines is to regulate the procurement of works, goods and services carried out by Ministries, Departments and Agencies (MDAs) in the State, Local Government Areas and all other Procuring Entities in the State with a view to strengthen procurement function for COVID 19 or emergency situation and facilitate participation of Small and Medium Enterprises (SMEs).

## 3.0 EMERGENCY PROCUREMENT GUIDELINES

3.1 Sec 41 (1), of the Cross River State Due Process and Price Intelligence Bureau for Public Procurement Law(2020), states that a Procuring Entity may carry out an **emergency, procurement** where:

- a) The State is either seriously threatened by or actually confronted with a disaster, pandemic, catastrophe, insurrection or act of God:
- b) The condition or quality of goods, equipment, building or public owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them in their actual values or usefulness;

3.2 Following the occurrence of any of the above listed situations, and in this case, COVID 19 pandemic, Procuring Entities in carrying out procurement that responds to the situation may carry out procurement of goods, works and related services in accordance with the emergency procurement procedure. In such circumstance, every Procuring Entity shall apply principles of sound procurement, value for money, economy, efficiency, transparency, openness and accountability in all cases.

3.3 Also, Section 40 (a –g) of the Law states that a Procuring Entity may carry out **direct procurement** where:

- a) Goods, works or services are only available from a particular supplier or contractor or if a particular supplier has exclusive rights in respect of the goods, works or services and no reasonable alternative or substitute exists; or
- b) There is an urgent need for the goods, works or services and engaging in tender proceeding or any other method of procurement is not practical



due to unforeseeable circumstances giving rise to the urgency which is not the 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 other methods of procurement because of the time involved in using those method;
- d) Where the goods to be procured are homogeneous or the prices are standardised or otherwise controlled.
- e) A procuring entity that has procured goods equipment technology or services from a supplier or contractor determines that:
  - (i) Additional supplies need to be procured from that supplier or contractor because of standardization;
  - (ii) There is need for compatibility with existing goods equipment technology or services taking into account the need of the procurement in meeting the need of the procurement entity
  - (iii) The limited size of the proposed procurement in relation to the original procurement provides justification.
- f) The procuring entity seeks to enter into a contract for research, experiment, except where the contract includes the production of goods in qualities to establish commercial viability or recover research and development cost; or
- g) The procuring entity applies this Law for procurement that concern state security or the reconstruction, rehabilitation and resettlement efforts or other humanitarian measures to address insurgency or terrorism and its after math, 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 a single supplier or contractor;
- b) shall include in the record of procurement proceedings a statement of the grounds for its decision and the circumstances in justification of single source procurement.

(3) Notwithstanding the provision of subsection (1) and (2) of this section where procurement of goods works and services involves construction or maintenance of road or other public infrastructure or the drilling and maintenance of boreholes or the provision of electricity or other social amenities the relevant



Government ministry department or agency shall have power to carry out such works as direct labour.

(4) any procurement of goods works and services done or purported to be done pursuant to subsection (3) of this section shall be deemed to have been made or done under the Law.

#### **4.0 METHODS OF PROCUREMENT UNDER EMERGENCY SITUATION**

Further to Part V under the Cross River State Due Process and Price Intelligence Bureau for Public Procurement Law (2020), the following Methods are therefore recognised and can be used under Emergency Procurement:

Emergency Procurement Method;

Restricted Tendering Method and

Direct Contracting Method

**4.1 Emergency Procurement Method** can be used for emergency procurement when the State is either seriously threatened by or actually confronted with a disaster, pandemic, catastrophe, insurrection or act of God

**4.2 Restricted Tendering Method** can be used for emergency procurement when (i) the requirement is of a specialized nature or has requirements of public safety, health or public security; and (ii) due to the urgent nature of the requirement, an open competitive bid is not practical

**4.2.1 Advance Payment Guarantee (APG):** SMEs can now enter into effective contract with procuring entities without Advance Payment Guarantee (APG) provided that the directing minds shall be personally liable if they fail to perform the said contract.

**4.3 Direct Contracting Method** can be used when the purchase is for urgently needed remedial works / goods, provided this is restricted to the minimum requirement to meet the urgent need until a procurement by other methods can be fulfilled;

**4.4 Registration of Contractor (SME) for all Categories of New Registration and Renewal.** SMEs shall pay 50% of the approved fees provided that where the Bureau discovers that a big Company of Limited Liability Company wants to circumvent the process by projecting itself as an SME, it will not be allowed to benefit from the guidelines.



## **5.0 STEP BY STEP GUIDELINES AND GENERAL PROCUREMENT PROCEDURES FOR IMPLEMENTATION UNDER EMERGENCY SITUATION**

### **5.1 Planning and Documentation**

- a) Procuring Entities shall identify the Goods, Works and Services to be procured under the emergency situation
- b) Procuring Entities shall prepare a detailed List of all identified needs and forward these to the Governor for Approval.
- c) A copy of the approved list/Plan by Mr Governor shall be forwarded to Bureau for records and documentation and Issuance of No Objection for Commencement of the Emergency Procurement
- d) Procuring Entities shall identify firms- Contractors/Consultants/Service Providers that possess the requisite technical and financial capacities to carry out the procurement

### **5.2 Tendering Process**

- e) Procuring Entities shall invite bids through direct emails to short-listed/identified bidders for Direct, Emergency and Restricted Tendering Methods
- f) The bidding periods for Direct, Emergency and Restricted Tendering Methods should not be less three (3) days respectively due to the urgency of these procurements
- g) In the case of use of Restricted Tendering, bids should be limited to three (3) unrelated bidders
- h) For Restricted Tendering, Procuring Entities shall ensure that all Contractors/Consultants/Service Providers invited possess requisite technical and financial capacities to undertake such projects and are eligible to do business with Cross River State Government and are registered Contractors/Consultants with Cross River State Due Process and Price Intelligence Bureau
- i) The presence of bidders or their representatives shall not be required during Bid Opening in the case of Restricted Tendering. Rather, the event may be covered by video recording to enhance transparency and for record purpose
- j) All required records and documentation relating to Bid Opening in case of Restricted Tendering Method should be properly filed and kept by the Procuring Entity



- k) For Restricted Tendering Process, Procuring Entities shall evaluate bids in line with the requirements in the bidding documents and recommend the least evaluated responsive bidder for award of Contract

### **5.3 Contract Award and Performance**

- l) 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.
- m) Procuring Entities shall ensure that prices are as obtainable at the moment given the circumstances at hand.
- n) Procuring Entities should ensure that all records of supplies and locations should be properly kept including Store Receipt Vouchers, Delivery Notes and Invoices, as required.
- o) In line with Section 41 (4) of the Cross River State Due Process and Price Intelligence Bureau for Public Procurement Law (2020), immediately after the procurement had been concluded, the Procuring Entity shall file a detailed report of all contract awards, thereof with the Bureau which shall verify same and if appropriate issue a Certificate of 'No Objection;
- p) The details of the contracts should include the name of contractor/Service Provider/ Consultant, description of the project, Location of Project, Date of Contract Award, Contract sum and duration of the contract.
- q) All COVID-19 Contracts should be handled with expedition but along the principles of accountability, due consideration being given to the gravity of each emergency based on Section 41( 3) of the Cross River State Due Process and Price Intelligence Bureau for Public Procurement Law (2020).

## **6.0 ADDITIONAL SPECIFIC GUIDELINES FOR THE EMERGENCY SITUATION**

**6.1 Bidding documents/Request for Quotation** – The Cross River State Due Process and Price Intelligence Bureau or Procuring Entity shall cause all bidding documents or Request for Quotation to be available publicly to all interested Bidders and may be downloaded on the website of Procuring Entity or Cross River State Due Process and Price Intelligence Bureau

**6.2 Submission of Bids/Proposals/Quotations through electronic means:**



Bids/Proposals/Request for Quotation shall be submitted in electronic form to the electronic address provided in the Invitation to Bids by the Procuring Entity

The Bids/Proposals/Quotation shall be submitted in **encrypted format** using a **password read-only document as attachments to the email**

In case of Two Envelope Bid/Proposal Submission procedure, Bids/Proposals shall be submitted in **encrypted format password read-only document as attachments to the email, WITH DIFFERENT Passwords for submission in each envelope.**

The Procuring Entity shall acknowledge by email the receipt of the submitted Bids/Proposals/Quotations

### **6.3 Opening of Bids/Proposals/Quotations through electronic means:**

Opening of Bids/Proposals shall be done online only after submission deadline.

In case of two envelope systems for Bids/Proposals, only the first envelope shall be opened electronically after submission deadline.

Bidders/Shortlisted Consultants shall be required to send password to their Bids/Proposals within one hour after the submission deadline.

The Procuring entity in return shall acknowledge immediately by email the receipt of the passwords

**6.4 Bid Securing Declaration:** Procuring Entities shall now accept Bid-Securing Declaration instead of a Bid Security.

Bidders shall however use the form included in the Bidding Document for it to be acceptable as Bid Securing Declaration. See Annexure III

Financial Security: The Procuring entity shall accept scanned copies of all financial securities required by the bid

**6.5 Force Majeure** – For purposes of these guidelines, “Force Majeure” means an event or situation beyond the control of the Supplier/Consultant that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.



Accordingly, due to this COVID 19 Pandemic, once the Procuring Entity is formally notified in writing either by e-mail or otherwise, by its Supplier/Consultant stating the conditions , the Supplier/Contractor shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the COVID 19 pandemic.

The Supplier/Consultant shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of COVID 19.

### **Annexure I**

#### **Step by Step for Restrictive Tendering Method**

Procurement of Goods/Works (Restrictive Tendering Method)	
Process Objective	To implement emergency procurement using Restrictive Tendering Method
Process Owner	Procurement Unit
Benefit(s) to MDA	Benefits to Cross River State Government
<ul style="list-style-type: none"> <li>▪ Procurement method is fit for purpose and helps to achieve speedy completion of process</li> </ul>	<ul style="list-style-type: none"> <li>▪ It provides additional opportunity for the state to achieve economy and efficiency</li> <li>▪ Time and cost is reduced</li> </ul>

<b>Responsibility</b>	<b>Task</b>	<b>Step</b>
Head, Procurement Unit (for Procurement Planning Committee)	1. Planning and Documentation	1.1. Procuring Entity shall identify the Goods, Works and Services to be procured under the Restrictive Tendering Method



		<p>1.2. Prepare a detailed List of all identified needs and forward these to the Bureau for Approval:</p> <p>1.3. update the Procurement Plan based on Emergency Procurement needs</p> <p>1.4. forward all identified needs meant for the Bureau's Approval to the Accounting Officer</p>
Accounting Officer	2. Seek Bureau's Approval for Restricted Tendering	<p>2.1. forward all identified needs meant for the Bureau's Approval as documented in the updated Procurement Plan and seek approval for the use of Restricted Tendering</p> <p>2.2. Receive approval from Bureau to go ahead with Restricted Tendering</p> <p>2.3. Forward approval to Procurement Unit to</p>
Procurement Unit	3. Implement the Tender Process	<p>3.1. Receive Bureau's approval from Accounting Officer</p> <p>3.2. invite bids through direct emails to short-</p>



		<p>listed/identified unrelated bidders</p> <p>3.3. Receive Bids from Bidders not later than the third day based on the time defined in the Bidding Document</p> <p>3.4. Open Bids without the presence of Bidders but the opening should be recorded or covered with video evidence</p>
Procurement Unit and Evaluation Committee	4. Carry our evaluation	<p>4.1. Invite Evaluation Committee Members to a scheduled Online Evaluation Meeting</p> <p>4.2. Evaluate Bid received as at deadline of Bid submission in line with requirements in the Bidding Document</p> <p>4.3. Evaluation Committee carry out Online meeting to evaluate received Bids</p> <p>4.4. recommend the least evaluated responsive bidder for the award of Contract</p> <p>4.5. Communicate the decision of the Evaluation Committee to the</p>



		Accounting Officer for Approval
Procurement Unit	5. Contract Creation and Management	<p>5.1. Receive approval from the Accounting Officer on the Contract Award</p> <p>5.2. Issue Letter of Award to Supplier/Service Provider and sign Letter using Digital signature</p> <p>5.3. arrange for receipt of goods/delivery of project with all relevant officers including the Stores Officer and Rep of User Depts</p>
Procurement Unit	6. Send Procurement Records to Bureau for Post Review	6.1. send procurement records to Accounting Officer for onward transmission to Bureau for Post Review immediately after award of contract
Accounting Officer	7. Forward Procurement Records to Bureau for Post Review	7.1. Forward Procurement Records to Bureau for post review



## Annexure II

### Step by Step for Direct Contracting & Emergency Procurement

Procurement of Goods/Works (Direct Contracting Method)	
Process Objective	To implement emergency procurement using Direct Contracting Method
Process Owner	Procurement Unit
Benefit(s) to MDA	Benefits to Cross River State Government
<ul style="list-style-type: none"> <li>▪ Procurement method is fit for purpose and helps to achieve speedy completion of process</li> </ul>	<ul style="list-style-type: none"> <li>▪ It provides additional opportunity for the state to achieve economy and efficiency</li> <li>▪ Time and cost is reduced</li> </ul>

Responsibility	Task	Step
Head, Procurement Unit (for Procurement Planning Committee)	1. Planning and Documentation	1.1. Procuring Entity shall identify the Goods, Works and Services to be procured under the



		<p>Restrictive Tendering Method</p> <p>1.2. Prepare a detailed List of all identified needs and forward these to the Bureau for Approval:</p> <p>1.3. update the Procurement Plan based on Emergency Procurement needs</p> <p>1.4. forward all identified needs meant for the Bureau's Approval to the Accounting Officer</p>
Accounting Officer	2. Seek Bureau's Approval for Direct Contracting Tendering	<p>2.1. forward all identified needs meant for the Bureau's Approval as documented in the updated Procurement Plan and seek approval for use of Direct Contracting Method</p> <p>2.2. Receive approval from Bureau to go ahead with Direct Contracting</p> <p>2.3. Forward approval to Procurement Unit to commence procurement</p>



Procurement Unit	3. Implement the Tender Process	<p>3.1. Receive Bureau's approval from Accounting Officer</p> <p>3.2. invite bid through direct emails to one identified Bidder who has the requisite technical and financial capacity to handle the assignment with evidence of previous experience</p> <p>3.3. Receive Bid from the Bidder not later than the third day based on the time defined in the Bidding Document</p>
Procurement Unit and Evaluation Committee	4. Carry our evaluation	<p>4.1. Invite Evaluation Committee Members to a scheduled Online Evaluation Meeting</p> <p>4.2. Evaluate Bid received as at deadline of Bid submission in line with requirements in the Bidding Document</p> <p>4.3. Evaluation Committee carry out Online meeting to evaluate the received Bid</p> <p>4.4. recommend the bidder for the award of</p>



		<p>Contract once all requirements are met</p> <p>4.5. Communicate the decision of the Evaluation Committee to the Accounting Officer for Approval</p>
Procurement Unit	5. Contract Creation and Management	<p>5.1. Receive approval from the Accounting Officer on the Contract Award</p> <p>5.2. Issue Letter of Award to Supplier/Service Provider and sign Letter using Digital signature</p> <p>5.3. arrange for receipt of goods/delivery of project with all relevant officers including the Stores Officer and Rep of User Depts</p>
Procurement Unit	6. Send Procurement Records to Bureau for Post Review	6.1. send procurement records to Accounting Officer for onward transmission to Bureau for Post Review immediately after award of contract
Accounting Officer	7. Forward Procurement Records to Bureau for Post Review	7.1. Forward Procurement Records to Bureau for post review



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### Annexure III

### Form of Bid-Securing Declaration

*[The Bidder shall fill in this Form in accordance with the instructions indicated.]*

Date: *[date (as day, month and year)]*

Bid No.: *[number of RFB process]*

To: *[complete name of Procuring Entity]*

We, the undersigned, declare that:

We understand that, according to your conditions, Bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding or submitting proposals in any contract with the Procuring Entity for the period of time of *[number of months or years]* starting on *[date]*, if we are in breach of our obligation(s) under the Bid conditions, because we:

- (a) have withdrawn our Bid during the period of Bid validity specified in the Letter of Bid; or
- (b) having been notified of the acceptance of our Bid by the (Please mention name of Procuring Entity) during the period of Bid validity, (i) fail or refuse to sign the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, in accordance with the requirements of the Bidding Document.

We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Name of the Bidder\* \_\_\_\_\_

Name of the person duly authorized to sign the Bid on behalf of the Bidder\*\* \_\_\_\_\_

Title of the person signing the Bid \_\_\_\_\_

Signature of the person named above \_\_\_\_\_

Date signed \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

