



**AFRICA CENTRE OF EXCELLENCE FOR SUSTAINABLE  
POWER AND ENERGY DEVELOPMENT  
(ACE-SPED)**



**UNIVERSITY OF NIGERIA, NSUKKA**

**PROCUREMENT GUIDELINE**

**October 2020**

**AFRICA CENTRE OF EXCELLENCE**  
**FOR SUSTAINABLE POWER AND ENERGY DEVELOPMENT**  
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**LEGAL FRAMEWORK**

University of Nigeria is a federal government owned University that operates within the laws governing federal government Institutions. The policies on public procurement are defined in the relevant laws and regulations governing procurement in Nigeria. This manual provides procurement guidance or direction to all Federal Ministries, extra-ministerial offices, departments, agencies, parastatals, corporations and all other public entities set up by the Constitution or Act of the National Assembly and/or whose funding derives from the Federation Accounts, their own internally generated revenue, the Federation share of the Consolidated Revenue Fund and special allocations in the federal budget whatever form this may take or being entities outside of the foregoing description, derive at least 35% of the funds appropriated or proposed to be appropriated for any type of procurement described in the Public Procurement Act.

The Public Procurement Act (PPA) 2007 provides the legal framework, policies, supervisory Institutions and operational structures, as well as the scope, process, methods, supervision, compliant mechanism, code of conduct and offences relating to procurement of goods, works and services and disposal of assets at the federal government level in Nigeria.

## PROCUREMENT PROCEDURES

The Bureau of Public Procurement (BPP) has established general policies and guidelines relating to public sector procurement, and for supervising procurement implementation as well as reviewing the procurement and award of contract procedures of every public entity to which the Public Procurement Act applies, including certifying all Federal wide procurement (subject to the Bureau's prior review) prior to the award of contracts.

In University of Nigeria, Nsukka (UNN), although petty purchases are made through advancement of cash (cash advance) as outlined in the Federal Government Financial Regulations, procurements are carried out in line with the Public Procurement Act 2007 through the application of the principles outlined in *procurement procedure manual* issued by Bureau of Public Procurement.

The principal hallmark of the University's procurement of Goods, Works and Services shall be Economy, Effectiveness, Efficiency, Fairness, Reliability, Transparency, Accountability and Ethnical Standards.

In compliance with Section 57 (2) of the Public Procurement Act, 2007 The conduct of all persons involved with procurement processes of the University shall at all times be governed by principles of honesty, accountability, transparency, fairness and equity.

The Vice-Chancellor and any Officer to whom responsibility is delegated shall bear responsibility and accountability for any actions taken or omitted to be taken either in compliance with or in the contravention of the Public Procurement Act, 2007 (Section 16, Sub-section 21 of the Public Procurement Act, 2007).

ACE-SPED, University of Nigeria, Nsukkaintends to apply the procurement procedure in the University by observing the steps outlined by the Bureau for Public Procurement.

## ESSENTIAL STEPS IN PUBLIC PROCUREMENT

### Step 1: EFFICIENT PROCUREMENT PLAN DRIVEN BY NEEDS ASSESSMENT

The University ensures that procurement plans are made based on needs assessment. This entails identifying the goods, works or services requirements as well as the applicable procurement methods that will promote economies of scale and reduce procurement costs.

All procurement in the University shall be conducted:

- a) Based on the procurement plans supported by prior budgetary appropriations or legally accessible internally generated revenue. Proceedings shall not be formalized until the University has ensured that funds are available to meet the obligations and has obtained a “Certificate of No Objection” to contract Award from the Bureau of Public Procurement where applicable.
- b) By open competitive bidding, except as otherwise exempted.
- c) In a manner which is transparent, timely, and equitable for ensuring accountability and conformity with the Public Procurement Act, 2007.
- d) With the aim of achieving value for money and fitness for purpose.
- e) In a manner which promotes competition, economy and efficiency and in accordance with the laid down procedure and timelines.
- f) That all procurements must be done through open competitive bidding except in special or restricted cases as provided for in Sections 39–43 of Public Procurement Act, 2007.

## **PROCUREMENT METHODS**

1. **Open Competitive Bidding:** this is a procurement process by which the University offers equal, simultaneous information and opportunity to every interested bidder to effect the procurement of required goods and works based on previously defined criteria. Hence, procurement of goods and works shall be conducted by open competitive bidding and the winning bid shall be the lowest evaluated responsive bid with regards to work specifications, not necessarily the lowest price.

Invitations can be through:

- i. International Competitive Bidding (ICB).
- ii. National Competitive Bidding (NCB).

2. **Restricted/Selective Tendering:** restricted bidding procedures are followed when the invitation to bid is directly addressed to a pre-selected list of international or national suppliers or contractors. Bids are solicited from a list of potential suppliers broad enough to ensure competitive prices, including all known suppliers if their number is small.

Subject to the approval by the BPP, the University may for reasons of economy and efficiency engage in procurement by means of restricted or selective tendering if:

- i. Only a few known sources are available (e.g procurement of a small number of vehicles or machine tools).

- ii. Advertising would be a waste or for small value procurements in which the cost of advertising is disproportionately high.
- iii. There are exceptional reasons such as emergency actions related to a major natural disaster, which may justify the waiving of advertising for competitive bids.
- iv. Goods to be procured are such as pharmaceuticals, or highly specialized equipment for construction of dams or where there are only a limited number of known suppliers or manufacturers.
- v. The procedure is used as an exception rather than the norm.

3. **National Shopping/Request for Quotation:** this is an appropriate procurement method where:

- i. Quotations are obtained from at least three (3) suppliers or contractors.
- ii. Each supplier is to give only one quotation and cannot vary the quotation.
- iii. No negotiation exists between the University and the supplier.
- iv. Contract is awarded to the lowest priced responsive quotation.

National Shopping/Request for Quotation is used for procuring frequently used:

- i. Readily available off the shelf goods of small value.
- ii. Small value commodities for which specifications are standard
- iii. Small value works or services.

4. **Direct Contracting/Procurement:** this is a means of procurement of goods and services or works from a single supplier or source. It entails no competition and shall be used only under exceptional circumstances, for instance when carrying out any emergency procurement where:

- i. Goods, works and services are only available from a particular supplier or contractor, or if a particular supplier or contractor has exclusive rights in respect of the goods, works and services, and no reasonable alternative or substitute exists.
- ii. There is an urgent need for the goods, works or services and engaging in tender proceedings or any other method of procurement is impracticable due to unforeseeable circumstances giving rise to the urgency which is not of dilatory conduct on the part of the University.
- iii. Owing to a catastrophic event, there is an urgent need for goods, works or services making it impracticable to use other methods of procurement because of time constraint.
- iv. Additional supplies need to be procured from supplier or contractor because of standardization.
- v. An extension of an existing contract is necessary as works are already underway and were procured through competitive procurement procedures.

- vi. A repeat procurement of goods, works or services which has recently been competitively tendered and satisfactorily executed/received or still work-in-progress and for which the supplier or contractor is willing to maintain his tender prices/rates. Repeat procurement can be applied only within a period not exceeding two (2) years from the date of original tender.
- vii. There is need for compatibility with existing goods, equipment, technology or services, taking into account the effectiveness of the original procurement in meeting the needs of the procuring entity.
- viii. The required equipment is proprietary and obtainable only from one source (such as proprietary software, text books, spare parts, defence items) and no alternative equipment or products with equivalent performance characteristics are available.
- ix. The process design requires the purchase of critical components or materials from a particular supplier as a condition of a performance guarantee.

5. **Emergency Procurement:** this may be applied where:

- i. The country is either seriously threatened by or actually confronted with a disaster, catastrophe, war, insurrection or act of God.
- ii. 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.
- iii. A public project may be seriously delayed for want of an item of a minor value or usefulness.

Where emergency procurements are to be used, the following procedures shall be followed:

- i. The bidding document will disclose an itemized priced Bills of Quantity based on the Engineer's/Consultant's estimate.
- ii. All bidders who participate in bidding will be allowed to bid a percentage above or below the Engineer's/Consultant's estimate.
- iii. The lowest bid price shall be selected as the winner provided the bid is substantially responsive.
- iv. The bidding period may not be reduced below three (3) days in the case of limited bidding by invitation and seven (7) days when open advertisement is used.
- v. Lump sum contracts shall be used wherever possible, with milestone payments identified at intermediate levels,
- vi. Purchases from government institutions must be given preference.

All procurement under emergencies shall be handled with expedition but along the principles of accountability, due consideration being given to the gravity of each

emergency. Immediately after the cessation of the situation warranting any emergency procurement, the procuring entity shall file a detailed report thereof with the BPP which shall verify same and if appropriate, issue a Certificate of No Objection.

**PROCUREMENT METHOD AND THRESHOLDS OF APPLICATION**

<b>Procurement Method</b>	<b>Goods</b>	<b>Works</b>	<b>Non-Consultant Services</b>	<b>Consultant Services</b>
International/ National Competitive Bidding	<del>₱</del> 100 million and above	<del>₱</del> 1 billion and above	<del>₱</del> 100 million and above	Not Applicable
Competitive Bidding	<del>₱</del> 2.5 million and above but less than <del>₱</del> 100 million	<del>₱</del> 2.5 million and above but less than <del>₱</del> 1 billion	<del>₱</del> 2.5 million and above but less than <del>₱</del> 100 million	Not Applicable
Shopping (Market Survey)	Less than <del>₱</del> 2.5 million	Less than <del>₱</del> 2.5 million	Less than <del>₱</del> 2.5 million	Not Applicable
Single Source/ Direct Contracting (Minor value procurements)	Less than <del>₱</del> 0.25 million	Less than <del>₱</del> 0.25 million	Less than <del>₱</del> 0.25 million	Less than <del>₱</del> 0.25 million
Prequalification	<del>₱</del> 100 million and above	<del>₱</del> 300 million and above	<del>₱</del> 100 million and above	Not Applicable
Quality and Cost Based	Not Applicable	Not Applicable	Not Applicable	<del>₱</del> 25 million and above
Consultant Qualifications	Not Applicable	Not Applicable	Not Applicable	Less than <del>₱</del> 25 million
Least Cost	Not Applicable	Not Applicable	Not Applicable	Less than <del>₱</del> 25 million

## Step 2: **ADEQUATE APPROPRIATION**

The University ensures that procurement activities are not implemented/formalized until funds are available and appropriate approvals are obtained.

## Step 3: **ADVERTISEMENT**

Procurement activities are usually advertised in at least two National newspapers of general circulation, the federal tenders journal and the University website. Advertisement for ICB shall in addition, be made in one relevant international publication and the official website of BPP. This entails public invitation for pre-qualification or in the absence of pre-qualification, an invitation for tenders. Every advert of invitation to an open competitive bid shall include:

- i. The nature, quantity, category and place of delivery of goods to be procured or the nature, category and location of the works to be procured.
- ii. A statement that submissions must be made only in English language.
- iii. The deadline for delivering or performing the procurement.
- iv. Information about the requirements to be met by suppliers and contractors.
- v. A statement of the application of domestic preferences if any.
- vi. The instructions for obtaining the documents containing the specifications of essential provisions of the procurement and the price, if any, for these documents.
- vii. The place and deadline for the submission of the bids.
- viii. The place, date and time for the opening of the bids.
- ix. Any notice for submission of bids shall be a minimum of six weeks (for ICB and NCB particularly)

## Step 4: **TRANSPARENT PRE-QUALIFICATION**

This entails sensitization of Contractors/Suppliers on the general qualification requirement in a manner that will ensure transparent, timely and equal opportunity to all bidders. The document expresses the manner and place for the submission, specific date and time which allows sufficient time for suppliers, contractors or consultants to prepare and submit their applications. It involves public invitation for pre-qualification or in the absence of pre-qualification, an invitation for tenders.

Invitation for prequalification of bidders is commonly used to invite bidders to submit the requisite information that is necessary to determine their capability to handle the work at hand. The University shall apply prequalification for large works, civil works, turnkey plants, some special goods and complex information technology system. Where technical and financial bids are required at the same time, it shall be submitted in two (2) separate



envelopes and marked accordingly. Technical bids will be opened first and only technically qualified bidders will have their financial bids opened at a later date.

The pre-qualification document shall include:

- i. Instructions to prepare and submit prequalification applications.
- ii. A summary of the main terms and conditions required for the procurement contract.
- iii. Any documentary evidence or other information that must be submitted to demonstrate their qualification.
- iv. The manner and place for the submission of applications to prequalify and the deadline for the submission expressed as a specific date and time which allows sufficient time (not less than two (2) weeks) for bidders to prepare and submit their applications.
- v. Any other information that may be established by the University in conformity with the procurement act.

The University uses Invitation to bid for soliciting bids from interested contractors to undertake a particular work or supply of goods either by way of National Competitive Bidding (NCB) or International Competitive Bidding (ICB).

Only projects in excess of N300m for works and N100m for goods & services qualify for pre-qualification else, direct invitation to bid for tenders applies.

#### Step 5: **BID SUBMISSION/OPENING**

All bids shall be deposited in a tamper proof box while bid registers shall be maintained showing the date of bid submission. Bid opening is done publicly with bidders in attendance. Only bids submitted before or by the deadline or date specified in the tender documents or any extension of the deadline are considered.

Hence, the University shall:

- i. Permit attendees to examine the envelopes in which the bids have been submitted to ascertain that the bids have not been tampered with.
- ii. Cause all the bids to be opened in public, in the presence of the bidders or their representatives and any interested member of the public.
- iii. Ensure that the bid opening takes place immediately following the deadline stipulated for the submission of bids or any extension thereof.
- iv. Ensure that a register is taken of the names and addresses of all those present at the bid opening and the organizations they represent which is recorded by the secretary of the tenders board.
- v. Call-over to the hearing of all present, the names and addresses of each bidder, the total amount of each bid, the bid currency and ensure that these details are

recorded by the secretary of the Tenders Board or his delegate in the minutes of the bid opening.

All bids shall be first examined (and clarifications sought to assist in the examination, evaluation and comparisons) to determine if they:

- i. Meet the minimum eligibility requirements stipulated in the bidding documents.
- ii. Have been duly signed.
- iii. Are substantially responsive to the bidding documents
- iv. Are generally in order.

The following shall not be sought, offered or permitted during bid opening:

- i. Changes in prices.
- ii. Changes of substance.
- iii. Changes to make unresponsive bid responsive.

Notwithstanding the above, the University may correct purely arithmetical errors that are discovered during the examination of tenders and promptly communicate the bidder accordingly.

A major deviation shall result in a rejection of the bid. In all cases of rejection, a letter stipulating the reasons shall be sent to the bidder and the bidder shall not be permitted to amend the bid to become compliant whereas a minor deviation shall be subject to clarification.

The following shall be considered as major deviation:

- i. The fact that the bidder is ineligible or not pre-qualified
- ii. The fact that the bidder is not invited
- iii. Where the bid document is not signed.
- iv. Any bid received after the date and time for submission stipulated in the bidding document.
- v. Any bid submitted at the wrong location.
- vi. Unacceptable sub-contracting.
- vii. Unacceptable time schedule if time is of essence
- viii. Unacceptable alternative design or description.
- ix. Unacceptable price adjustment.

In cases not mentioned above and where there exists a doubt as to whether a particular condition is a major or minor deviation, the following rules shall apply:

- i. Where the impact on the costs is major, it shall be regarded as a major deviation.
- ii. Where the impact on the costs is minor, it shall be regarded as a minor deviation.

In cases of minor deviations, written clarification may be obtained from the bidder and where applicable, an offer shall be made for the correction.

#### **Step 6: BID EVALUATION**

This entails examination of bids to ensure that the minimum eligibility requirements are met. Selection is based on the responsive proposal with the lowest price in case of cost selection or best combined evaluation in terms of criteria set with respect to technical and price factors or the highest technical ranking as the case may be.

#### **Eligibility Criteria of Bidders**

Criteria for Pre-Qualification of Bidders expected from university contractors and service providers as stated in the Public Procurement Act, 2007 and which shall be complied with are as follows;

All bidders in addition to requirements contained in any solicitation documents shall possess the necessary:

- i. Professional and technical qualifications to carryout particular procurements;
- ii. Financial capability;
- iii. Equipment and other relevant infrastructure;
- iv. Shall have adequate personnel to perform the obligations of the procurement contracts;
- v. Possess the legal capacity to enter into the procurement contract by providing Certificate of Incorporation/Registration issued by the Corporate Affairs Commission
- vi. Not be in receivership, the subject of any form of insolvency or bankruptcy proceedings or the subject of any form of winding up petition or proceedings;
- vii. Have fulfilled all its obligations to pay taxes, pensions and social security contributions by providing current Tax Clearance Certificate, Pension Clearance Certificate, Industrial Training Fund Certificate, evidence of contribution to Nigeria Social Insurance Trust Fund (NSITF);
- viii. Not have any director who has been convicted in any country for any criminal offence relating to fraud or financial impropriety or criminal misrepresentation of falsification of facts relating to any matter;

Every bid shall be accompanied with an affidavit disclosing whether or not any officer of the relevant committees of the University or Bureau is a former or present director, shareholder or has any pecuniary interest in the bid and confirm that all information presented in its bid are true and correct in all particulars.

#### Step 7: TENDER BOARD/FEC APPROVAL

The Vice Chancellor (Accounting Officer), University Tenders Board and Federal Executive Council (FEC) are the approving authorities for all procurements based on the applicable threshold. Appropriate approval is usually obtained before any procurement activity is carried out.

#### Approval Thresholds

For contract award within the University of Nigeria, all necessary approvals shall be obtained based on thresholds set by the Bureau of Public Procurement (BPP) or Secretary to the Government of the Federation (SGF) Circular Ref. No SGF/OP/1/S3/XI/849 dated 14<sup>th</sup> January, 2016. Approval Threshold is as shown in Table below:

#### APPROVAL THRESHOLDS FOR SERVICE WIDE APPLICATION

Approving Authority/ "No Objection" to award	Goods(₦)	Works (₦)	Non-Consultant/ Consultants Services (₦)
BPP issues "NO Objection" to award/FEC approves	₦100 million and above	₦500 million and above	₦100 million and above
Ministerial Tenders Board	₦5 million and above but less than ₦100 million	₦10 million and above but less than ₦500 million	₦5 million and above but less than ₦100 million
Parastatal Tenders Board	₦2.5 million and above but less than ₦50 million	₦5 million and above but less than ₦250 million	₦2.5 million and above but less than ₦50 million
Accounting Officer: Vice Chancellor	Less than ₦2.5 million	Less than ₦5 million	Less than ₦2.5 million

**Source:** Circular Ref No. Ref. NO. SGF/OP/1/S.3/XI/849 dated 14<sup>th</sup> January, 2016

## Step 8: **CONTRACT AWARD/EXECUTION**

Contracts are awarded to the best responsive bidder for execution. Following the acceptance of a bid submitted by a bidder, the University shall issue a formal letter of award of contract to the bidder. This shall be followed by the execution of a formal contract.

The following payment considerations apply:

- i. Mobilization fees – Not Compulsory.
- ii. A maximum of 15% of contract sum may be paid as mobilization fee on provision of unconditional Bank Guarantee.
- iii. Performance Guarantee of not less than 10% of the contract sum or an amount equivalent to the mobilization fee (whichever is higher) is to be provided by successful bidder.
- iv. Delay in payment after 60 days of valuation of certification attracts interest at the rate specified in the contract (usually at CBN rate).

During the execution of a contract, changes may occur in the quantity of work done requiring amendments to the contract agreement between the University and the contractor. Such amendments are executed by a change order or variation order, provisions for which are made in the Special Conditions of Contract, and are justified in the reports on the contract execution.

### **VARIATION TO CONTRACTS**

The variations to contracts during the implementation stage cause very high burden on the University and to the Government. If the contribution from the variation to the final contract sum is high it will dilute the procurement process that was carried out when awarding the contract. Hence, the University must ensure that all professional and human efforts are taken to minimize this situation. Variations are mainly due to change of scope and quantity variations.

To minimize variations due to change of scope the University shall ensure that the detailed design and drawings are ready prior to the award of contracts for major projects or get a comprehensive briefing from the persons who are involved in design, whether they are internal or external consultant before inviting bids.

To minimize variations due to inaccurate quantities or omissions in the Bill of Qualities (BOQ)/ Bill of Engineering Measurement and Evaluation (BEME), it is recommended that before the start of preparation of bidding documents, the University shall obtain a certificate from the persons who have prepared the Bill of Engineering Measurement and Evaluation (BEME)/Bill of Quantities (BOQ) that a second person has checked the BOQ for its accuracy and completeness. It is also highly recommended that when "Type" structures or buildings are constructed, to compare the Bill of Engineering Measurement and Evaluation

(BEME)/Bill of Quantities (BOQ) with the final measurements made to such “Type” structure or building before finalizing the Bill of Engineering Measurement and Evaluation (BEME)/Bill of Quantities (BOQ).

Despite all of the above, if the aggregate amount of the variations (due to quantity changes and extra works orders issued), is within the contingency provision (which should be 10% maximum), the Vice Chancellor may approve the change order with notification to the Bureau. Otherwise, it shall be referred to the Tenders’ Board and the Bureau for approval.

#### Step 9: **PROJECT IMPLEMENTATION**

During implementation, appropriate supervision and monitoring are applied to ensure that the objectives of the procurement process are achieved and that all contractual obligations and activities are completed efficiently by both parties to the contract.

#### **OFFENCES RELATING TO PUBLIC PROCUREMENT**

The following shall constitute an offence:

- Entering or attempting to enter into collusive agreement, whether enforceable or not, with a supplier, contractor or consultant where the prices quoted in their respective tenders, proposals or quotations are or would be higher than would have been the case had there not been collusion between the persons concerned;
- Conducting or attempting to conduct procurement fraud by means of fraudulent and corrupt acts, unlawful influence, undue interest, favour, agreement, bribery or corruption;
- Directly or indirectly attempting to influence in any manner the procurement process to obtain an unfair advantage in the award of a procurement contract;
- Splitting of tenders to enable the evasion of monetary thresholds set;
- Bid-rigging;
- Altering any procurement document with intent to influence the outcome of a tender proceeding;
- Altering or using fake documents or encouraging their use; and
- Wilful refusal to allow the Bureau or its officers to have access to any procurement record.

This is as stated in the Public Procurement Act 2007, section 58, sub-section 4a-h and Financial Regulations of Federal Republic of Nigeria (as amended) 1999, section 3125 Part IV.

### **SANCTIONS**

Any officer who contravenes the provisions of the Public Procurement Act, 2007 shall be liable as follows:

- A term of imprisonment of not less than 5 calendar years without any option of fine.
- Summary dismissal from government services.

Any company or firm that contravenes any provision of the Procurement Act commits an offence and is liable on conviction to a cumulative penalty of:

- A fine of 25% of the value of the procurement in issue.
- Debarment from all public procurements for a period not less than 5 calendar years
- Where any company or firm shall be convicted pursuant to the offences as listed in the Procurement Act, every director of the company as listed on its records at the Corporate Affairs Commission shall be guilty of an offence and is liable on conviction to a term of imprisonment not less than 3 calendar years but not exceeding 5 calendar years. Without an option of fine.

This is as stated in the Public Procurement Act 2007, section 58, sub-section 5a-b & 6a – b and Section 3126 Part IV Financial Regulations of Federal Republic of Nigeria 1999.