

The Public Procurement and Disposal of Public Assets Guidelines

Guidelines issued by the Public Procurement and Disposal of Public Assets Authority under Section 97 of the Public Procurement and Disposal of Public Assets Act, 2003

Guideline Details:

Guideline Reference: No.1/2021

Guideline Subject: Guidance on Procurement in Emergency Situations

Date of commencement: 30th June 2021

Guidelines are issued to all Accounting Officers who are responsible for distributing copies of this Guideline to the Contracts Committee and members of the Procurement and Disposal Unit of the Procuring and Disposing Entity

Guideline Subject: Guidance on Procurement in Emergency Situations

1.0 Introduction

Procurement in Procuring and Disposing Entities (PDEs) is affected by the Covid-19 pandemic thereby requiring needs to be acquired through emergency procedures under the PPDA Act, 2003. This Guideline provides guidance on how procurements should be conducted in emergency situations.

2.0 Definitions

In this Guideline, unless the context otherwise requires –

“Emergency” means circumstances which are urgent, unforeseeable and not caused by dilatory conduct.

“Emergency Situation” means a circumstance which is urgent or unforeseeable or a situation which is not caused by dilatory conduct where-

- (a) Uganda is seriously threatened by or actually confronted with a disaster, catastrophe, war or an act of God;
- (b) life or the quality of life or environment may be seriously compromised;
- (c) the conditions or quality of goods, equipment, buildings or publicly owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them in their actual value or usefulness;
- (d) an investment project is seriously delayed for want of minor items; or
- (e) a Government programme would be delayed or seriously compromised unless a procurement is undertaken within the required timeframe.

“Dilatory Conduct” means action taken with motive or purpose to delay or action tending or intended to cause delay or to gain time or to put off a decision.

“Responsible Officer” means a staff of a PDE or consultant authorised to carry out any procurement functions or activity on behalf of the PDE.

“Day” means working day.

3.0 Circumstances Under “Emergency Situations”

The following are some of the circumstances or events that require procurements to be undertaken under emergency procedure:

- (i) Humanitarian crisis such as a pandemic or epidemic;
- (ii) Natural or man-made disasters such as floods, fires, earthquakes, volcanic eruptions;
- (iii) Failure of critical infrastructure or equipment such as the breakdown of security system (s), hospital(s); road(s), bridge(s) or water and sewerage installation(s);

Guidelines for Procurement under Emergency Situations

- (iv) Political emergency such as war, civil uprising(s) or terrorist attack(s);
- (v) An unforeseen security risk to personnel, equipment, works, or operations that requires an emergency response to avoid or minimize risk to an acceptable level; or
- (vi) Any other unanticipated circumstance or event that qualifies under the interpretation of “emergency situation” as provided for in Section 3 of the PPDA Act 2003.

4.0 Communication

Communication within a Procuring and Disposing Entity (PDE) or between a Procuring and Disposing Entity and Provider(s) shall be in writing or through electronic means such as email, short messages (SMS) and social media. Any communication in SMS or social media messages shall be referred to and confirmed in formal writing and records kept with copies to the Procuring and Disposing Unit.

5.0 Meetings

During emergency situations, pre-bid meetings, meetings of evaluation committee and Contracts Committee may be held either physically or virtually provided that a record of the proceedings is kept and signed off later.

6.0 Choice of Procurement Method under Emergency Situations

Procuring and Disposing Entities are advised to adopt the following procedure when choosing a procurement method during emergency situations.

1. Where there is a necessity to act immediately and there is insufficient time to use competitive methods of procurement, the direct method of procurement shall be the preferred method of procurement under the emergency situations.
2. Where there is a requirement to respond urgently to an emergency situation and there is reasonable time, other competitive methods such as the restricted bidding method or the quotations method may be used with reduced bidding periods, shortlist of at least two bidders, simplified documentation or simplified bid submission method.

7.0 Best Practices in Emergency Situations

7.1 Statement of requirements

The Statement of requirements shall at a minimum provide:

- (i) For supplies; a list of supplies, functional requirements and delivery schedules;
- (ii) For works; the scope of works, activity schedule and completion schedule; and
- (iii) For services; the specific tasks to be performed, completion schedules and reporting lines.

Guidelines for Procurement under Emergency Situations

7.2 Market Price Assessment

Under emergency situations, the market price for supplies, works and services may not be the same as under normal situations.

- (i) The role of undertaking a market price assessment should be delegated by the Accounting Officer to the Procurement and Disposal Unit or the User Department. In undertaking the market price assessment, the delegated Officer shall use the information available on the market, online mechanisms and contract prices of other Entities under Emergency.
- (ii) The market price should take into account the costs of the supplies/works/services, delivery, packaging and a reasonable profit margin of the provider.
- (iii) The documentation for the market price assessment undertaken should be attached to the requisition form prior to approval by the Accounting Officer.

7.3 Initiation of Procurement

- (i) The procurement shall be initiated based on the procurement lists or requirements approved by the Accounting Officer.
- (ii) Where it is not practical to use the Authority's forms for requisitioning, an electronic message such as an email/other online platform or formal letter may be used to initiate a procurement. This shall be properly documented and approved by the Accounting Officer.
- (iii) Where it is not practical to give a procurement reference number, a procurement may continue but shall be assigned a temporary reference number pending proper reference that may be given retrospectively at an appropriate time when conditions allow. This shall also be documented on the file.

7.4 Invitation of Providers and Delegation to other entities

- (i) Procuring and Disposing Entities should first establish whether the required good/services/works can be sourced from providers with already existing contracts executed after a competitive process either by the Entity or another Procuring and Disposing Entity.
- (ii) Where an Entity has identified another Entity with an existing contract for identified needs, the procurement may be delegated to the identified Entity. The Accounting Officers of the two Entities shall agree on the modalities for implementation of the contract.
- (iii) In shortlisting providers under emergency situations, priority shall be given to national and resident providers.
- (iv) Where there is a necessity to act immediately, the necessary goods/services/works should be obtained directly from the most convenient providers who are able to deliver within a short lead time.
- (v) The procurement may be delegated to Development Partner Agencies, such as but not limited to the United Nations, where such agencies can deliver items within

Guidelines for Procurement under Emergency Situations

shorter delivery times than those offered on the open market for example procurement of emergency medical supplies and kits.

7.5 Use of Simplified Bidding Documents

1. The Procuring and Disposing Entity shall use simplified bidding documents containing the Instructions to Bidders (ITBs), brief statement of requirements and the contract form.
2. The bidding documents shall not be for sale and there shall be a requirement for a bid securing declaration instead of a bid security.
3. The Local Purchase Order shall be used as the simplified contract form for all the other procurement methods in addition to the micro procurement method. It should include the basics of what is being delivered, to what specification, when, where, by whom, the price and any other charges like freight and insurance.
4. The contract form shall state or provide a link, to the applicable general terms and conditions of the contract and shall provide for advance payment.
5. Where it is not practicable to use bidding documents, Procuring and Disposing Entities shall request the providers for proforma invoices.

7.6 Bidding, Evaluation and Bid or Proposal Validity Periods

1. The bidding periods, bid or proposal validity and evaluation periods stated in this Guideline shall apply to all procurements under emergency situations.
2. To ensure Government obtains value for money and efficiency in procurement under emergency situations, the following shall apply:
 - a) For open bidding, restricted/selective bidding methods the maximum bidding periods shall be five (5) days. In case of restrictive tender/selective bidding, the bidding document should be sent electronically receipt confirmation should be filed.
 - b) For request for quotation/proposal, the maximum bidding period shall be three (3) days. The request for quotation/proposal document should be sent by electronically and receipt confirmation should be filed.
 - c) The maximum evaluation periods for works, supplies or services shall be three (3) days from date of opening of bids/proposals to submission of the evaluation report to the Contracts Committee.
 - d) The maximum bid or proposal validity period shall be twenty (20) days.
 - e) In case the procurement is not able to be handled within the above stated days, the Accounting Officer can make approval of an extension.

7.7 Clarifications during Bidding

1. Clarifications may be requested for and responded to electronically within a reasonable time before the closing of the deadline for receipt of bids or proposals.
2. All clarifications/amendments to a Bidding Document should be posted on the Procuring and Disposing Entity's website.

Guidelines for Procurement under Emergency Situations

3. Emails to Procuring and Disposing Entities may be used when requesting clarifications.

7.8 Submission, Receipt and Opening of Bids/Proposal

1. Submission of bids or proposals may be delivered electronically to a given email address.
2. Opening of bids or proposals shall be carried out by an authorized person who can access the given email address as shall be stated in the invitation.
3. Witnessing of the opening of bids or proposals may be virtually managed and where it is a public opening, shall be recorded and availed electronically to participating bidders or members of Contracts Committee or User Department.

7.9 Evaluations of Bids/Proposals

1. In an emergency situation, an Evaluation Committee meeting shall be carried out physically or virtually and may be composed of a minimum of three people, with a minimum of representation from the User Department or Procuring and Disposing Unit.
2. Clarifications may be requested and responded to electronically within a reasonable time in consideration of the period to complete the evaluation of bids or proposals.
3. Evaluation of bids or proposals depending on the nature, complexity, capacity of the PDE and urgency may be outsourced upon approval by the Accounting Officer in consultation with the User Department and Contracts Committee.

7.10 Due Diligence

Due diligence may be undertaken physically or virtually, or by reference letters and all such communications or meetings shall be documented and records or brief notes kept on the procurement file.

7.11 Contract Management

1. All contract performance reports, meetings or communication shall be in writing by email or formal letters, SMS social media messages or in hardcopy and
2. There shall be evidence of contract performance in form of a certificate of performance or report of satisfactory performance or goods received note or a record signed by the contract manager and filed within two days of contract performance.

8.0 Transparency and Accountability

Procurements handled under emergency situations shall adhere to the key procurement principles of transparency and accountability through keeping records of every transaction and display of key decisions as indicated in the PPDA Act 2003, Regulations and Guidelines.

Guidelines for Procurement under Emergency Situations

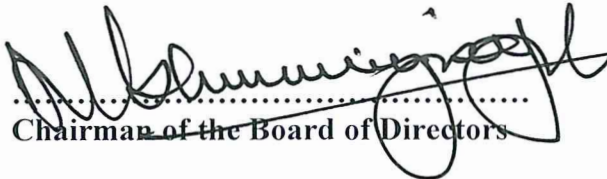
8.1 Documentation of Every Action and Decision

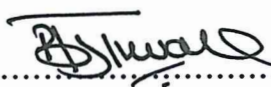
To adhere to the principles of transparency and accountability:

1. The records kept of every transaction and decision shall include:
 - a) Choice of procurement method;
 - b) Provider awarded with contract amount;
 - c) The time frame for contract execution;
 - d) Provider payment dates;
 - e) Certification of completion of works/services/goods;
 - f) Provider payment dates; and
 - g) All records for procurement processing in line with completeness of the audit trail.
2. Records shall be kept securely.

8.2 Display of Procurement Requirements and Decisions

1. To inform the public, the procurement requirements list during emergency situations shall be displayed on the Procuring and Disposing Entity notice board or Entity website or the Authority's website.
2. The contract award decisions shall be displayed on the Procuring and Disposing Entity notice board, website and the Authority's website within five (5) days of the award decision.


.....
Chairman of the Board of Directors


.....
Executive Director of the Authority

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

