

JIGAWA STATE DUE PROCESS & PROJECT MONITORING BUREAU

***Paper Presentation on public procurement activities under COVID 19
pandemic /future emergency situations and challenges that Small and
Medium Enterprises (SMEs) faces in participating and winning contracts
awarded by Jigawa State government***

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Maimuna Millennium park Hadejia Jigawa State

By

Engr. Alhassan Abbas MNSE, MNIWE, COREN Reg.

Ag. Director Water Engineering Dept.

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Preamble

The purpose of this paper is to address the issue of public procurement activities under COVID 19 pandemic and other future emergency situations, also to look in to the challenges that Small and Medium Enterprises (SMEs) faces in participating and winning contracts awarded by Jigawa State government by providing solutions to how such challenges/barriers can be overcome by SMEs.

Emergency Procurement

- *Emergency procurement will only be considered when a threat to public health, welfare, or safety exists. Its also considered as a means of purchase in a crises situation where immediate action is required to prevent the possible loss of life or property or significant financial loss or environmental impacts.*

Preparation of Emergency Procurement Plans

- All procuring Entity are to formulate procurement plan for COCOVID-19 Projects
- Prepared Plans are to be uploaded in to the procuring Entity/State website
- Projects that are not captured in the procuring Entity's procurement plan shall not be processed for payment
- no reduction of values or splitting of contract will be entertained.
- under COVID -19 Pandemic/lockdown or any other form of Emergency publishing the opportunity on the State/Procuring Entity website is enough.

Procurement Implementation

Section 59(2) and 27 of the Jigawa state Due Process and project monitoring Bureau Law No. 13 of 2019 underlined the needs and techniques in handling Emergency Procurement.

- A procuring Entity may for the purpose of this law carry out an Emergency procurement where:*
 - the State is confronted with a disaster, catastrophe or other act of God*
 - 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 value or usefulness*

Contd.

- a public project may be seriously delayed for want of an item of a minor value*
- In an Emergency situation, a procuring entity may engage in direct contracting of goods, works and services*
- All procurement made under emergencies shall be handled with expedition but along with principles of accountability, due consideration being given to the gravity of each emergency*
- Immediately after the cessation of the situation warranting the emergency procurement, the procuring entity shall file a detail report thereof with the Bureau which shall verify same*

Contd.

Note under Emergency situation:

- ❖ Due process “No objection” is not required*
- ❖ Direct contracting to be used*
- ❖ Adopt accountability, transparency and value for money*
- ❖ Contractor must possess requisite technical and financial capacity*

Guideline for COVID -19 Procurement process

1. Procurement planning:

- ✓ *Procuring Entity shall identify the Goods, Works and Services to be procured*
- ✓ *procuring Entity shall prepare procurement plans base on identified needs*
- ✓ *Forward the prepared Procurement plans to Due process for publishing*
- ✓ *Records of all procurement shall be provided not later than four weeks after award of such contract*

Contd.

2. Request for Bids/Quotations

- ✓ *Bids/quotation can be sent by email*
- ✓ *email address for submission must be a working and secure one*
- ✓ *the email address must be an email address with domain name of procuring entity*
- ✓ *The email address for submission should be stated in the Request for quotation*
- ✓ *Bidders are to download the Request for quotation from Procuring entity's website*
- ✓ *website must allow for free access*

Contd.

3. Submission of Bids/Quotations

- ✓ *Bidders can submit bids as an attachments to email*
- ✓ *The bids/quotation must be read only and password protected*
- ✓ *Procuring entity must acknowledge receipt of submitted bids via email*

4. Bids/Quotations Opening

- ✓ *In the bidding document, Bidders will be requested to send password to their bids within one hour after the submission deadline*
- ✓ *Procuring Entity must acknowledge the receipt of password via email*

Contd.

- ✓ Bids/Quotations shall be opened electronically only after the deadline*
- ✓ Bids/Quotation opening records must be sent to all bidders via email*
- ✓ Video recording of the bid/quotation opening is encouraged*
- ✓ Bid Register, Bid return sheet and other relevant documents required by the Jigawa State Due Process and project monitoring Bureau's Law should be kept by the procuring entity as part of the Bid Opening records*

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5. Submission/opening Quotation by e-procurement system

- ✓ *Bid submission and bid opening shall be processed through the secured e- procurement system instead of paragraph 3 and 4 above only for state that has an e-Procurement system*

6. Pre-bid Meeting (When included in the Bidding Document)

- ✓ *Should be held virtually, connection details should be forwarded to all firms that have obtained the bidding documents and be given sufficient advance notice to enable them plan for their attendance*
- ✓ *Bidders who intend to attend can also be requested to contact Procuring Entities by email and request for the connection details*

Contd.

7. Bid Security

- ✓ *Procuring Entities are advised to request for Bid Securing Declaration instead of Bid Security for small procurement packages and where extremely necessary, for some large packages*

8. Submission of Original Documents

- ✓ *Request for submission of certain documents; Bid submission Forms, Bid Securing Declaration, Manufacturers Authorizations should include a language stating that copies of these documents will be treated as if they are originals during the COVID-19 emergency*

Contd.

9. Bids/Quotations Evaluation

- ✓ *Bids/Quotations Evaluation can be carried out electronically with the members of evaluation committee*
- ✓ *For procurement of goods, works and non – consulting services, evaluation can be conducted virtually*

10. Contract Award

- ✓ *Procuring Entity shall proceed to award the contract at fundamental market prices, specifying quantity/quality and time within which the execution of goods, works and services must be completed*

Contd.

- ✓ *All COVID-19/Emergency contract should be handled with expedition but along the principles of accountability, due consideration being given to the gravity of each emergency*

11. Publication

- ✓ *For all Emergency Procurement Contracts, the Bureau shall on quarterly basis, publish on its website the details of contracts awarded which shall include the name of contractor, description of the contract, contract sum and duration of the contract*

Contd.

- ✓ *Details of the award of all COVID – 19 contracts should be forwarded to Jigawa State Due Process not later than 10 working days after award has been made*
- ✓ *The information above should be transmitted to the Bureau's official email address info@jigawadueprocess.com and should be signed by the Accounting Officer*
- ✓ *The hard copy shall be forwarded to the Bureau after the suspension of the lockdown exercise*
- ✓ *The details should include the name of contractor, description of the project, contract sum and duration of the contract*

Contd.

12. Contract Signing

- ✓ *Depending on the restriction on movement the contract can be signed at a meeting of both representative, in this case social distancing will be observed*
- ✓ *Alternatively, one copy of the pdf contract with the latest Adobe Acrobat Reader (<http://get.adobe.com/reader/otherversion>) with an option to “signature and Initial”, could be signed and initialed by both parties and send by email. The final signed contract must be printed, scanned and shared with the bidder by email; or*
- ✓ *The duplicate copy of the contract are signed simultaneously by both*

Contd.

Parties and pdf copies exchanged by email. The process is as follows:

- ❖ on finalizing the contract, each party prints a copy and signs according to their procedural requirements.*
- ❖ Each party scan the signed contract and email as a pdf to the other party*
- ❖ on receipt of the email, each party downloads the contract documents, prints a hard copy and signs*
- ❖ Each party then scans the contract document (now signed by both parties), and sends, as a pdf, to other party*

Contd.

13. Contract Implementation

- ✓ *Activities within the contract that are not affected by restriction of movement or physical gathering of people should continue*
- ✓ *If otherwise, a force majeure should be declared in accordance with the provisions of the contract*
- ✓ *For consultancy supervision of civil works or similar contracts, the employer should declare a force majeure*
- ✓ *To avoid double handling and to reduce the logistic value chain, it may be necessary in some instances for store officers and stock verifiers to be deployed to locations where specialized item shall be used or installed instead of normal practice*

SMEs ELIGIBILITY CRITERIA

A. Compulsory Requirement

- ❖ Business name Registration*
- ❖ Evidence of Tax Clearance*
- ❖ Vat Registration*
- ❖ Registration with State works registration board*
- ❖ Registration with Commerce*
- ❖ Photograph*
- ❖ Email Address*

Contd.

B. Non Compulsory Requirement but attract Marks:

- ❖ Bank Statement for the last one year
- ❖ List of Equipment
- ❖ Technical qualification
- ❖ Evidence of citizenship

Second Segment

***CHALLENGES THAT SMALL AND MEDIUM ENTERPRISES (SMES) FACES
IN PARTICIPATING AND WINNING CONTRACTS AWARDED BY JIGAWA
STATE GOVERNMENT***

Introduction

Small and Medium-sized enterprises (SMEs) or small and medium – sized businesses are businesses whose personnel numbers fall below certain limits. The abbreviation “SME” is used by international organizations such as the World bank, the European union, the United Nations and the world trade organization.

Classification approved by National Policy on SMEs

S/N	SIZE CATEGORY	EMPLOYMENT	ASSETS (n million)(Excluding land & Buildings)
1.	<i>Micro Enterprises</i>	<i>Less than 10</i>	<i>Less than 5</i>
2.	<i>Small Enterprises</i>	<i>10 – 49</i>	<i>5 – less than 50</i>
3.	<i>Medium Enterprises</i>	<i>50 – 199</i>	<i>50 – less than 500</i>

For the purpose of this paper and Guideline by World Bank the employment – based classification for medium enterprises will be adopted. Therefore, SMEs will be defined as enterprises employing less than 200 persons.

Common Barriers to the Participation of SMEs in Public Procurement

The table below contains the most common obstacles faced by SMEs in the procurement process.

<i>OBSTACLES AND PROBLEMS</i>	<i>SUGGESTED SOLUTIONS</i>
<i>Value of contracts too high for SMEs to participate due to inability of SMEs to meet financial (cash flow, average turnover) and similar experience requirement</i>	<ul style="list-style-type: none"><i>❖ Breakdown the package in lots in quantitative and qualitative terms</i><i>❖ the qualification criteria should be relaxed e.g (turnover, similar project etc)</i><i>❖ SMEs should be encouraged to participate as joint ventures and subcontractors</i>
<i>Tight deadlines for preparation of bids</i>	<ul style="list-style-type: none"><i>❖ Increase in the deadlines for the submission of bids especially for complex contracts</i>

Contd.

<i>Lack of necessary knowledge of the public procurement law (PPL) and bidding procedures of the state</i>	<i>❖ Training and workshops should be organized for the SMEs on the bidding procedures</i>
<i>Lack of knowledge of bidding opportunities in the MDAs</i>	<i>❖ Bidding opportunities should be published in the state public procurement agency websites and for state with e procurement in the e procurement portal</i> <i>❖ Dissemination of all bidding opportunities to the relevant trade groups in the state, for example, the Nigeria Association of Small and Medium Enterprises or similar bodies.</i>
<i>High cost of bid Preparation including cost of producing paper bids, obtaining the bidding documents and submission of Bids to the MDAs</i>	<i>❖ Allow free download of bidding documents from a freely available website</i> <i>❖ waive the cost of obtaining bidding document or charge the barest minimum to cover of the preparation pf the bidding document</i>

Contd.

	<ul style="list-style-type: none">❖ <i>Allow electronic submission of password protected, read –only bids and quotation</i>
<i>High cost and difficulty in obtaining financial instruments; bid security, advance payment and performance guaranties</i>	<ul style="list-style-type: none">❖ <i>waive the requirement for the submission of financial instruments for contract below a threshold of Two Hundred Million (200m)</i>❖ <i>Allow for submission of performance bond declaration in place of bank performance guarantee and advance payment declaration form instead of advance payment guarantee</i>❖ <i>Allow for submission of bid securing declaration instead of Bid Security</i>
<i>Insufficient cash flow to implement awarded contracts</i>	<ul style="list-style-type: none">❖ <i>strengthen the payment of advance payment up to 30% of contract amount as indicated in the Due Process Law</i>

Common Error of SMEs in Procurement Procedure and way out

In addition to obstacle/barriers faced by SMEs in participating in public procurement contracts, SMEs also commit some errors when they participate in public procurement contracts.

Common Errors Of SMEs	How to overcome Errors
Failure to follow up on notices of bidding opportunities	❖ Daily Monitoring of notices on the state, and /or Public procurement Agency (PPA) website or the e procurement if available
Not properly studying the bidding documents requirement including the technical specification	❖ specific attention should be paid to studying the specification and other requirements
Late Submission of Bids	❖ deadline stipulated in the bidding documents for submission of bid should be complied with

Contd.

Failure to request for clarification of bidding documents / untimely submission of the request for clarification	❖ SMEs should take advantage of the public procurement Law which allows bidders to request for clarifications of the bidding document within the time stipulated in the issued bidding documents
Failure to submit with the bids all requested documentary evidence supporting the requirements of the bidding documents	❖ Ensure all required evidences to support bid submission are included in the bid.

Training as a Key for success

Under section 4(i) of the public procurement Agency (Due Process) Law No13. of 2019, mandate the Bureau to sensitize, promote and educate the citizens and other stakeholders in the state on public procurement issues such as:

- Where and how to find opportunities for contracts by MDAs*
- the provision of the state public procurement Law*
- Preparation of responsive bids*
- How to request for a de-brief*
- complaint handling mechanism in the state public procurement Law*

Monitoring of SMEs Participating

Each MDA will submit to the Due Process the details of contracts awarded by the MDA on monthly basis. The details will be published on the Public Procurement Agency (Due Process) website. The following information will be needed for each contract:

- Description of the Contract*
- Names of the bidders*
- Number of person employed by the bidders*

THANK YOU ALL