



Guidelines

For

**Participation of Public Bodies in Public
Procurement**

PPRA

October, 2017

**Further information may be
obtained on www.ppra.go.tz**

PART I: INTRODUCTION	
1. Background	<p>1.1. The public procurement legislations have allowed public bodies to participate as bidders in tender opportunities floated by another public bodies or a private entity. In a situation where these opportunities have been floated, public bodies may opt to participate in line with the requirements of Regulation 115 of the Public Procurement Regulations of 2013 (PPR 2013) and its amendments of 2016 (PPR 2016).</p> <p>1.2. Section 106 of the Public Procurement Act Cap 410 has mandated the Authority to issue guidelines from time to time for better carrying out of its objectives or any functions under the Act. This guideline is hereby issued for participation of public bodies as tenderers in public or private procurement.</p>
2. Short Title	2.1. This document may be cited as the guidelines for participation of public bodies as bidders in public procurement.
3. Application	3.1. This guideline shall be applied by all public bodies while participating as bidders in public procurement.
4. Definitions	<p>4.1. In these Guidelines, unless the context requires otherwise;-</p> <p>“Authority” means the Public Procurement Regulatory Authority.</p> <p>“Procuring Entity” means a public body and any other body, or unit established and mandated by government to carry out public functions;</p> <p>“Public body” means any Ministry, Department or Agency of the Government; anybody corporate or statutory body or authority established by the Government; any company registered under the Companies Act being a company in which the Government or an agency of the Government, is in the position to influence the policy of the company; or any local government authority;</p> <p>“tenderer” means any natural or legal person or group of such persons participating or intending to participate in procurement proceeding with a view to submitting a tender in order to conclude a contract and includes a supplier, contractor service provider or asset buyer;</p>

<p>5. Purpose of the Guideline</p>	<p>5.1. General Purpose</p> <p>To guide PEs and other public bodies who carry out their objectives or any functions as PEs or bidders respectively during the implementation of public procurements.</p> <p>5.2. Specific Purpose</p> <p>Specific purpose of this guideline is to:</p> <ul style="list-style-type: none"> a) Provide guidance on appropriate provisions of the legislations which govern the participation of public bodies as bidders; b) Provide guidance on appropriate procedures to be used in procurement of goods and related services while participating as bidders during the implementation of the contract; c) To ensure consistency in the application of procurement procedures and practices; and d) Increasing transparency, efficiency and effectiveness of the bidding process.
<p>6. Importance of the Guideline</p>	<p>6.1 The guideline outlines the principles, considerations, and processes that should be followed by procuring entities when procuring goods, works or services from other public bodies.</p> <p>6.2 The use of this guideline will ensure uniformity with regard to the procedures to be undertaken by procuring entities when procuring goods, works and services during implementation of tenders floated by public bodies or private entity.</p>
<p>PART II: GENERAL PRINCIPLES AND STANDARDS</p>	
<p>7. General Principles</p>	<p>7.1. While inviting tenders from other public bodies, PEs shall ensure that procurement is conducted in a manner that maximizes integrity, competition, accountability, economy, efficiency, transparency and achieves value for money.</p> <p>7.2. PEs must execute their duties while observing the highest degree of standards of equity while taking into consideration of the following standards:</p> <ul style="list-style-type: none"> a) equality of opportunity to all bidders i.e. public bodies;

	<p>b) fairness of treatment to all parties i.e. public bodies; and</p> <p>c) the need to obtain the best value for money in terms of price, quality and delivery, having regards to prescribed specifications and criteria.</p> <p>7.3. When PEs decide to engage another public bodies as their tenderers, justifications for limiting such opportunities shall be provided and included in their procurement records;</p> <p>7.4. The recommendations of procurement management unit and approval of such procedures from the appropriate tender board must be obtained in line with provisions of Section 38(f) and 33(1)(d) of PPA 2011 as amended in 2016 respectively.</p>
8. Established and approved Standards	<p>8.1 PEs as well as Public Bodies which participate as tenderers must ensure the procurement conducted conforms to the established and approved standards. Where such standards are not available, no reference to the particular standards shall be made and prior approval from the Authority shall be sought prior to commencement of procurement.</p> <p>8.2 The Minister responsible for approving standards for certain goods to be used by Government shall be responsible for establishment and approval of such standards and be made available to the Authority for use by PEs.</p> <p>8.3 The established and approved standards for construction of Government building and procurement of furniture shall be issued by the Minister responsible for Works and shall be made available to the Authority for use by PEs.</p>
PART II: PROCUREMENT PLANNING AND BUDGET	
9. Procurement Planning by PEs	<p>9.1. PEs wishing to procure goods, works and related services should ensure that all related procurable items in these undertakings have been included in their approved Annual Procurement Plans (APP) and such APP has been approved by budget approving authority.</p> <p>9.2. Where the procurement requirement is not in the approved APP, a written approval of the accounting officer shall be sought prior to commencement of procurement in line with Section 49(3) of PPA 2011 as amended in 2016.</p> <p>9.3. In line with Regulation 69(9) of GN 446 of 2013, approval of the accounting officer shall be obtained either by inclusion</p>

	of that procurement in the APP or by request as an individual item of procurement when not included in the APP.
10. Budget Estimates and Commitment of Fund by PEs	<p>10.1. PEs shall prepare cost estimate and the budget for procurement of goods and services to be undertaken.</p> <p>10.2. Funds shall be allocated or committed before commencing procurement of machineries, spare parts and materials. PEs shall ensure that the commitments are recorded against the allocated funds before any contract is signed.</p> <p>10.3. For scheduled or routine activities, PEs may commence procurement proceedings if they are certain on funds availability in its budget for such activities.</p>
PART III: RESPONSIBILITIES OF PUBLIC BODIES OPERATING AS TENDERERS	
11. Procurement Planning by Public Bodies operating as tenderers	<p>13.1 All Public bodies operating as tenderers in opportunities floated by public or private entities shall comply with requirement to plan their expected procurement as outlines in paragraph 9 above.</p> <p>13.2 Pursuant to Regulation 149A(1) of GN 446 of 2013, a public body shall, in its annual procurement plan, identify goods or services to be procured directly from manufacturers, dealers, suppliers and service providers;</p> <p>13.3 In addition to paragraph 11.1 above, the Public Bodies shall ensure the following:</p> <ul style="list-style-type: none"> (a) They identify items and services that falls within their expected contractual obligations prior to participation in the tenders floated by other PEs or private entities; (b) They obtain the shortlist of manufacturers, dealers, suppliers and service providers through frameworks agreements for supply of such items and services required; (c) They obtain approval of their respective tender boards on the shortlist of manufacturers, dealers, suppliers and service providers obtained.
12. Price offer of the Public Body (tenderer) to PE	12.1 Public Bodies which participate as tenderer shall ensure the following during the preparation and submission of its price offer to the PEs:

	<p>(a) It prepares budget and schedule of requirements for each tender opportunities it is planning to participate;</p> <p>(b) It obtains from its accounting officer an approval of budget and schedule of requirements for the purpose of tendering and carrying out public-public contracts.</p> <p>(c) It ensures the price they offer as tenderer to PEs is based on the prevailing market rates.</p> <p>12.2 The budget and schedules of requirements (of a public body which participate as tenderer) which constitute the offer to PEs shall obtain approval of the Accounting Officer before it is submitted in response to the invited tender.</p>
PART IV: PROCUREMENT BY PUBLIC BODIES	
13. Use of Direct Procurement	<p>13.4 Public bodies shall comply with Regulation 149A of GN 446 of 2013 as amended in 2016 when procurement is made direct from manufacturers, dealers, suppliers and service providers.</p> <p>13.5 Where goods or services are to be procured subject paragraph 13.1, PE shall ensure the following:</p> <p>(a) Goods or services to be procured comply with the established and approved standards, except where such standards are not available;</p> <p>(b) The need for after sell services and the entire product life cycle are considered; and</p> <p>(c) Procure the goods or services by placing a direct order which shall be effected by terms and conditions.</p> <p>13.6 Subject to sub regulation 149 A(2)(c), where conditions given by manufacturer, dealer, supplier or service provider differ from those provided by the PE, such PE may seek guidance from PPRa and Attorney General Chamber (AGC).</p>
14. Use of Competitive Quotations	<p>17.1. Regulation 149A (4) of GN 446 of 2013 as amended in 2016 provides procedure to be followed when procurement is made from more than one manufacturers, dealers, suppliers and service providers.</p> <p>17.2. Where there is more than one manufacturers, dealers, suppliers and service providers; a PE shall</p>

	<p>(a) Ensure best Value for money by inviting quotations from each manufacturers, dealers, suppliers or service providers;</p> <p>(b) Evaluate all quotations received and where necessary negotiate with manufacturer, dealer, supplier or service provider with the view to ensure compliance with the requirements for the goods or services;</p> <p>17.3. Subject to sub regulation 149 A(2)(c) where conditions given by manufacturers, dealers, suppliers or service providers differ from those provided by the PE, such PE may seek legal guidance from the AGC.</p>
<p>15. Use of Framework Contracts</p>	<p>16.1. PEs may enter into framework agreements with manufacturers, dealers, suppliers and service providers for supply of frequently used items that fall under their expected contractual obligations.</p> <p>16.2. PEs should obtain unit prices for each items falling under framework agreements <u>while ensuring economy efficiency.</u></p>
PART II: PUBLIC – PUBLIC CONTRACTS	
<p>16. Engagement of public bodies by PEs</p>	<p>14.1. Public entities may enter into contractual agreements with each other for the provision of goods, works and services by means of single source or direct contracting. For such procurement, the PEs must ensure that the rates being charged are competitive and offer value for money.</p> <p>14.2. Where it is clear that value for money will not be obtained, the PEs should revert to a competitive tender process among public bodies as stipulated in the Public Procurement Regulations.</p> <p>14.3. Procurement of goods, works and services by PEs among the qualified public bodies shall be conducted on competitive procedures and the methods and procedures adopted herein under are the same as those provided in the PPA and PPR.</p> <p>14.4. Where single source method is used to engage a public body, procedures outlined in paragraph 7.4 above shall be observed including compliance to Regulation 159, 150 and 257 of PPR 2013 as amended.</p>

<p>17. Record Keeping by the public bodies</p>	<p>17.1. The accounting officer of a Public Body which have been awarded tender shall furnish the Authority with the following information for publication in the Journal and Tenders Portal:</p> <ul style="list-style-type: none"> (a) Name of the client, (b) Date of entering into a contract; and (c) Contract amount. <p>17.2. Regulation 115(5) requires the Public Bodies (tenderers) to keep and maintain accurate and systematic all the necessary records, documents on how the offer price was arrived at for inspection by the Authority, Controller and Auditor General or any other body with interest on efficient use of public funds.</p>
<p>18. Monitoring by the Authority</p>	<p>18.1. Regulation 115(6) requires the Public Body to furnish to the Authority with the name of the client and date of entering into a contract and contract amount for publication in the Journal and Tenders Portal</p>