

# **Public Procurement (Electronic Bidding System) Regulations 2015**

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## **THE PUBLIC PROCUREMENT ACT**

**Regulations made by the Minister, on the recommendation of the Policy Office, under sections 26A and 61 of the Public Procurement Act**

### **1. Short title**

These regulations may be cited as the **Public Procurement (Electronic Bidding System) Regulations 2015**.

### **2. Interpretation**

In these regulations —

“Act” means the Public Procurement Act;

“Central Registration Body” or “CRB” means the unit set up under regulation 4;

“common procurement vocabulary” means a single classification system to describe an item or a group of items;

“decryption” means the restoration of a bidding document or bid data to its unprotected original state;

“digital signature” has the same meaning as in the Electronic Transactions Act;

“encryption” means the application of a mathematical function that transforms characters of a file into other characters, rendering the file unreadable by any person;

“e-procurement system” means an electronic bidding system operated by an organisation approved by the Minister for the secure transmission of bidding documents, bid data and related documents in connection with the procurement of goods, works, consultancy services and other services and the award of contract by a public body;

“hash value” means —

- (a) a thumbprint of data in the e-procurement system which is generated using a one-way algorithm and remains constant all the time unless original data is modified;
- (b) a value that ensures the integrity of data and non-repudiation when digitally signed;

“open category” means the category which allows suppliers to participate in the electronic bidding proceedings;

“registered supplier” means a supplier registered under regulation 5;

“restricted category” means the category which allows suppliers to be registered in a particular common procurement vocabulary classification system.

### **3. Application of regulations**

(1) These regulations shall apply to procurement proceedings under the Act and any regulations made under the Act.

(2) The Policy Office shall, from time to time, issue instructions to public bodies for the implementation of the e-procurement system under these regulations within such dates as may be specified in the instructions.

### **4. Central Registration Body**

(1) For the purpose of section 26A of the Act, the Policy Office shall set up a unit to be known as the Central Registration Body or CRB.

(2) The CRB shall —

- (a) operate and manage the e-procurement system;
- (b) receive and process bidding documents for the evaluation and award of any procurement;
- (c) keep and maintain an updated register in respect of registered suppliers.

## **5. Registration of suppliers**

(1) For the purpose of the e-procurement system, every supplier —

- (a) shall, in the case of an open category, make an electronic application for registration;
- (b) may, in the case of a restricted category, make an electronic application for registration,

with the Policy Office in such form as it may determine.

(2) The Policy Office may, on such terms and conditions as it may determine, register a supplier as a registered supplier.

(3) The registration of a supplier in the restricted category shall be subject to the approval of the CRB.

## **6. Digital signature, encryption and decryption**

(1) For the security and integrity of data transmission, a digital signature shall be required by —

- (a) a public body to encrypt, decrypt and sign bidding documents and bid data before their publication, and to release data in respect of the bids received; and

(b) a supplier to encrypt, decrypt and sign its bid and bid data before their submission through the e-procurement system.

(2) Every transaction processed through the e-procurement system shall be binding on the parties using the e-procurement system.

## **7. Confidentiality**

(1) Except for the purpose of administering these regulations, every public body, the Board, a registered supplier or the CRB shall maintain the confidentiality of every bidding document or bid data processed through the e-procurement system.

(2) Any person who, without lawful excuse, contravenes paragraph (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 2 years.

## **8. Common procurement vocabulary**

There shall be a common procurement vocabulary for every category and subcategory of goods, works, consultancy services and other services.

## **9. Procurement request**

Every public body shall, as far as possible, manage all procurement requests through the e-procurement system.

## **10. Annual procurement plan**

(1) Every public body shall, not later than 30 June in a year, prepare an annual procurement plan in respect of the following financial year.

(2) An annual procurement plan using the open advertised bidding method shall, where appropriate, not later than 31 July of every year, be posted on the e-procurement system.

## **11. Preparation of electronic bidding documents**

(1) Every public body shall prepare bidding documents and procurement notice through the e-procurement system.

(2) The bidding documents and the procurement notice shall, in respect of a major contract, be forwarded to the Board through the e-procurement system for vetting.

## **12. Release of bidding documents**

(1) Every public body shall post on the e-procurement system —

(a) the procurements undertaken using the open advertised bidding method;

(b) the expression of interest; and

(c) the prequalification proceedings.

(2) Every bidding document shall be made available on the e-procurement system for suppliers to view and consider participation in the bidding exercise.

## **13. Bid preparation and submission**

(1) Every electronic preparation of a bid shall remain in the e-procurement system in an encrypted form accessible only to the bidder preparing the bid.

(2) Every bid shall be prepared and submitted through the e-procurement system by the closing date and time set for submission of the bid.

(3) Any bidder who has submitted a bid may, at any time before the closing date and time set for the submission of the bid, rework the bidding document or withdraw the bid.

(4) (a) Every bid submitted in an encrypted form by the closing date and time set for

submission of the bid shall be decrypted and re-encrypted by the bidder within the time frame set by the public body.

(b) Where a bid is not decrypted and re-encrypted within the time frame referred to in paragraph (a), the bid shall not be available for opening and shall be deemed to have been withdrawn by the bidder.

(5) This regulation shall not apply to a direct procurement made by a public body.

#### **14. Opening of electronic bids**

(1) Every public body or the Board shall allow a reasonable time for bidders to decrypt and re-encrypt their bids after the closing date and time for submission of bids.

(2) Every public body and the Board shall —

- (a) open the electronic bid;
- (b) match hash values and super hash values;
- (c) download bids submitted by bidders;
- (d) generate comparison statements; and
- (e) prepare a bid opening report.

(3) The bidders concerned may attend the opening of bids.

#### **15. Evaluation of bids and approval of award**

(1) The evaluation of bids may be carried out through the e-procurement system.

(2) (a) In respect of major contracts, a public body shall, with the approval of the Board, award the contract through the e-procurement system.

(b) In respect of any other contracts, other than major contracts, the public body shall award the contract through the e-procurement system.

## **16. Contract formation**

(1) Every bid submitted by a bidder through the e-procurement system shall represent an offer from the registered supplier.

(2) Where a public body selects the successful bidder, the offer shall be accepted and communicated through the e-procurement system by a letter of acceptance.

(3) On communication of the letter of acceptance, a formal contract agreement shall, as soon as practicable, be signed between the 2 parties.

## **17. Record keeping**

(1) Every public body shall keep electronic records of procurement proceedings.

(2) The electronic records referred to in paragraph (1) shall be kept for a period of not less than 5 years after the completion of the procurement proceedings to which they relate.

Made by the Minister, on the recommendation of the Policy Office, on 19 October 2015.