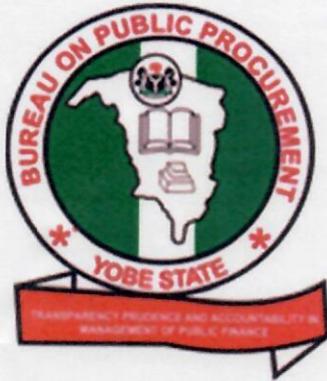


SEPTEMBER 1, 2020



# YOBE STATE PROCUREMENT GUIDE FOR SMES AND BIDDERS

**YOBE STATE BUREAU OF PUBLIC PROCUREMENT**

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## **Foreword**

*(To be inserted by Yobe BPP)*

## Common Abbreviations and Defined Terms

Abbreviation and Terms	Full Terminology/Definitions
Accounting officer	The person charged with the conduct of all procurement processes:
Bid	An offer, by a firm or joint venture, in response to a Request for Bids, to provide the required Goods, Works or Services.
Bid Security	form of security assuring the bidder shall not withdraw a bid within the period specified for acceptance and shall execute a written contract within the time specified in the bid;
Contractor or Supplier/Service Provider	Any potential party to a procurement contract with the procuring entity and includes any corporation, partnership, individual sole proprietor, joint stock company, joint venture or any other legal entity through which business is conducted
Goods	Objects of every kind and description including raw materials, products and equipment and objects in solid, liquid or gaseous form and electricity as well as services incidental to the supply of the goods
International Competitive Bidding	The solicitation of bids from both domestic and foreign contractors and suppliers
Open Competitive Bidding	The offer of prices by individuals or firms competing for a contract, privilege or right to supply specified goods, works, construction or services;
Pre-Qualification	The shortlisting process which can be used prior to inviting request for bids in the procurement of Goods, Works or consulting Services.

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Procuring entity	Means any public body engaged in procurement and includes a Ministry Extra-Ministerial office, Government agency, parastatal and corporation;
Public Procurement	the acquisition by any means of goods, works or services by the Government;
Services	The rendering by a contractor or supplier of his time and effort and includes any object of procurement other than goods, works or construction
Suppliers	a real or legal person that provides supply of goods, contracting of works or consultants;

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Transparency	Good procurement establishes and then maintains rules and procedures that are accessible and unambiguous
Accountability and Ethical Standards	Good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules

### **3.0 Anti-corruption**

The SMEs inclusive of all Private Sector practitioners are not exempt from responsibility to act ethically and transparently in procurement proceedings with the Government of Yobe State. Yobe State Bureau of Public Procurement therefore views corruption in the procurement process in bad light.

Corruption in procurement include the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party. It also involves all forms of fraudulent, coercive, collusive and obstructive practices.

Prospective Bidders should know that the Law provides for offences when there are infractions, in addition to other relevant Laws of the State.

### **4.0 The Yobe State Bureau of Public Procurement**

The Yobe State BPP is charged with an oversight of the operation of public procurement in Yobe State. These include:

- a) Formulate the general policies and guidelines relating to the public-sector procurement for the approval of the council;
- b) Subject to thresholds as may be set by the council, certify state procurement prior to the award of contract;
- c) Supervise the implementation of established Procurement policies;
- d) Monitor the prices of tendered items and keep a database of standard prices;
- e) Publish the details of major contracts in the procurement journal;
- f) Publish paper and electronic editions of the procurement journal and maintain an archival system for the procurement journal;

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## 1.0 Introduction

Sound public procurement policies and practices are one of the essential elements of good governance. Good practices reduce costs and produce timely results; poor practices lead to waste and delays and are often the cause of allegations of corruption and government inefficiency.

Public procurement covers all types of acquisitions made by or on behalf of Procuring Entities in Yobe State, which include Goods, Works and Services.

The purpose of these guidelines is to inform Small and Medium Enterprises (SMEs) and indeed all potential bidders in a general manner what is required of them when participating in procurement activities initiated by Procuring Entities. Any bidders seeking detailed understanding of the public procurement system in Yobe State should study the current Yobe State Public Procurement Law (2016) as amended in 2019, and the Yobe State Procurement Guidelines or any other guidelines issued by the Yobe State Bureau of Public Procurement listed on its website: <https://bpp.pfm.yb.gov.ng/>

## 2.0 Core Principles of Procurement

The principal hallmarks of proficient public procurement are as follows:

Principle	Explanation
Economy	Procurement is a purchasing activity whose purpose is to give the purchaser best value for money. For complex purchases, value may imply more than just price, as lowest initial price may not equate to lowest cost over the operating life of the item procured.
Efficiency	The best public procurement is simple and swift, producing positive results without protracted delays.
Fairness	Good procurement is impartial, consistent, and therefore reliable. It offers all interested contractors, suppliers and consultants a level playing field on which to compete and thereby, directly expands the purchaser's options and opportunities.
Reliability	

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- g) Maintain a state database of the particulars and classification and categorization of contractors and service providers;
- h) Collate and maintain, in an archival system, all state procurement plans and information;
- i) undertake procurement research and surveys;
- j) Organize training and development programmes for procurement professionals;
- k) Periodically review the socio-economic effect of the policies on procurement and advise the council accordingly;
- l) Prepare and update standard bidding and contract documents;
- m) Prevent fraudulent and unfair procurement and where necessary apply administrative sanctions;
- n) Review the procurement and award of contract, procedures of every entity to which this law applies;
- o) Perform procurement audits and submit such report to the house of Assembly quarterly;
- p) Introduce, develop, update and maintain related database and technology;
- q) Establish a single internet portal that shall serve as a primary and definitive source of all information on government procurement containing and displaying all public-sector procurement information at all times; and
- r) Co-ordinate relevant training programmes to build institutional

For all information relating to Public Procurement in Yobe State, SMEs and all bidders should always check <https://bpp.pfm.yb.gov.ng/>

## 5.0 Procuring Entities

A Procuring Entity in the context of the Public Procurement Law in Yobe State is an organization or person that has a legal or administrative mandate to undertake public procurement.

Characteristics	Explanation
Uniquely identifiable.	Procuring entities are legally and administratively distinct from each other.

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No overlap of operational area	The emphasis is on the word —operational  , as it defines the mandate of each entity.
Has an Accounting Officer as head	Headed by an accounting officer who is authorized to incur expenses on behalf of the ministry, department, agency or local government.
Has a budget	Prepares and submits a budget for appropriation as stipulated by statute or as required by policy.
Can undertake procurement	Can undertake procurement activities and has a Tenders Board structure.
Can form contracts	Has the legal or administrative authority to enter into a contract

By this, it therefore means specifically that Procuring Entities in Yobe State shall include: the State Government, local Government Areas, any public body in the State engaged in procurement, Ministries, Departments, Bureaus, Offices and Agencies of the State, extra-ministerial offices, parastatals and corporations including all entities which derive funds appropriated for any type of procurement described in the Law from the State Government's consolidated revenue fund.

All entities outside the foregoing description which derive funds appropriated or proposed to be appropriated for any type of procurement described in these guidelines from Yobe State Consolidated Revenue Fund, Internally Generated Revenue, all grants /funds from donor agencies (where applicable), revolving funds, any funds generated from the Yobe State public on behalf of / through the Yobe State Government etc. shall be subject to the provisions of the Yobe State Public Procurement Law.

## 6.0 E-Procurement

Yobe State is in the process of automating its Procurement process through e-Government Procurement (e-GP). The aim of this automation is

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to further promote stability in the operations of the Bureau and instil public confidence in Public Procurement in Yobe State.

When fully completed vendors shall be required to register their businesses online through the Registration module of the application software.

Overtime all the modules of the e-GP will be fully deployed. They e-Tendering, e-Publishing/Notification, e- Bidding, e-Notice Award and e-Procurement. After full deployment, all Procuring Entities in Yobe State shall be required to conduct their public procurement activities through this platform.

### **7.0 Reservations and Preferences (Domestic Preference)**

In the case of goods or works contracts, when procurement is carried out using public funds and foreign bidders are allowed to participate in bidding, domestic preference clauses can be applied and shall be included in the bidding document.

In the case of goods contracts, if the goods required are manufactured in Nigeria the applicable domestic preference clauses shall be included in the bidding document.

The Yobe BPP website will from time to time indicate any preference schemes in operation and shall by Regulation and Guidelines set the limit and the formulae for computation of margins of preference. Also, details will be included in the bid documents obtained from the procuring entity if they apply to that particular requirement.

### **8.0 Advertisement of Public Procurement Opportunities**

As contained in the Yobe State Public Procurement Law 2016 (as Amended) and Yobe State Public Procurement Guidelines, the following media shall constitute the means through which Bidder can access procurement opportunities from any Procuring Entity in Yobe State:

- Notices may be placed on the Notice Boards of Ministries, Departments Agencies and other procuring entities.
- Newspapers and other print media (both local and international)

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- Individual Public Procuring Entities' websites
- The online Tenders Journal of the Yobe BPP available on the Bureau's website at <https://bpp.pfm.yb.gov.ng/> or Ministry of Finance : <https://finance.pfm.yb.gov.ng/>
- Yobe State Government website <https://yobestate.gov.ng/>

It should be noted though that the medium and form of advertisement will depend on the size, complexity and monetary threshold of the goods, works or services being procured.

### **8.1 Content of Advertisements**

Every advert of an invitation to an Open Competitive Bid shall include:

1. The name and address of the Procuring Entity;
2. 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;
3. A statement that submissions must be made only in the English language;
4. The deadline for delivering or performing the procurement;
5. Information about the requirements to be met by suppliers and contractors;
6. A statement of the application of domestic preferences if any;
7. The instructions for obtaining the documents containing the specifications of the essential provisions of the procurement and the price, if any, for these documents;
8. The place and deadline for the submission of the bids; and
9. The place, date and time for the opening of the bids.

### **9.0 Basic Requirements for Eligibility to Tender**

Basic requirements to be eligible to tender in Yobe States are legal, professional, financial and human resource capacity. The specific requirements include:

Registration with the Yobe State Bureau of Public Procurement.

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1. Professional and technical qualification to carry out particular procurement including;
  - a. financial capacity;
  - b. equipment and other relevant infrastructure for Procurement of Works
  - c. personnel to perform the obligations of the procurement contract; and
  - d. the legal capacity to enter into the procurement contract;
2. 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;
3. Have fulfilled all its obligations to pay taxes, pensions and social security contributions;
4. Not have any directors who have been convicted in any country for any criminal offence relating to fraud or financial impropriety or criminal misrepresentation or falsification of facts relating to any matter.

Yobe State BPP or any Procuring Entity may require a bidder to provide documentary evidence or other information it considers necessary as proof that the bidder is qualified in accordance with the provisions of the Law and for this purpose any such requirement shall apply equally to all bidders.

### **9.1 Registration of Contractors/Consultants/Suppliers**

Registration of Contractors/Consultants and Suppliers is being done by Yobe State Bureau of Public Procurement. All potential Bidders must possess the following minimum credentials while before they can be registered:

- Certificate of Incorporation
- Certificate of Registration of company/Business Name
- Articles and Memorandum of Association
- Company Income Tax Clearance certificate for the last 3 years
- VAT Registration Certificate
- Nigeria Social Insurance Trust Fund

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- National Pension Commission Certificate
- Stamp Duties Certificate
- Industrial Training Fund Certificate
- Sworn affidavit with compliance to Yobe State Public Procurement Law
- Bank's Letter of Reference

## 9.2 Classification of Contractors/ Consultants with Works

Category	Value of Project		
A	100,000 – 2,000,000		
B	150,000 – 25,000,000		
C	200,000 – 200,000,000		
D	250,000 – No limit		

## 9.3 Registration with Bureau

Category	Registration Fee
Local Contractors and Suppliers	N5,000
National Contractor/Supplier	N10,000
International Contractor/Supplier	N50,000

## 10.0 The Tendering Process

### 10.1 Prequalification

Prequalification is normally used with Goods or Works and is optional depending on the nature and complexity of the Goods or Works. In Prequalification, minimum requirements are normally assessed on a pass/fail basis against such criteria as: eligibility, experience, technical capability and financial resources. These take into account objective and measurable factors such as: experience, satisfactory past performance, successful completion of similar contracts over a given period, capability of construction and/or manufacturing facilities, financial situation, and eligibility. All Applicants that substantially meet the minimum qualification requirements are invited to submit a Bid.

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At the end of the Prequalification process, the Procuring Entity shall inform all Applicants of the results of the Prequalification. The invitation to submit a Bid to a prequalified Applicant shall include the names of all prequalified Applicants.

### **11.0 Specifications**

In every procurement, there shall be inclusion of Standards and technical specifications which shall promote the broadest possible competition, while ensuring performance or other requirements for the procurement.

To the extent possible, in international competitive procurement, the Procuring Entity shall specify internationally accepted standards with which the equipment, materials or workmanship shall comply. When such international standards do not exist or are inappropriate, national standards may be specified. In all cases, the bidding documents shall state that equipment, material, or workmanship meeting other standards that are at least substantially equivalent to the specified standards will also be accepted.

### **12.0 Types of Bid**

All procurement of goods, works and services in Yobe State by all procuring entities shall be conducted by open competitive bidding or other bidding methods approved by Yobe State BPP. However, it should be stated that the default method is Open Competitive Bidding.

These other bidding methods are:

Restricted Tendering- is a tendering process by direct invitation to a shortlist of pre-registered or known contractors, and is subject to a specific approval being granted by the Yobe BPP.

It is an appropriate method of procurement where:

- a) The requirement is of a specialized nature or has requirements of public safety, or public security;
- b) Which make an open competitive bid inappropriate;
- c) Due to the urgent nature of the requirement, an open competitive bid is not practical;

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- d) The number of potential contractors is limited; or
- e) An open competitive bid has failed to result an award of contract.

Direct procurement where :

- a) Goods, works or 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 or services, and no reasonable alternative or substitute exists; or
- b) A Procuring Entity which has procured goods, equipment, technology or services from a supplier or contractor, determines that;
  - I. Additional supplies need to be procured from that supplier or contractor because of standardization,
  - II. There is a 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 procurement entity;
  - III. The limited size of the proposed procurement in relation to the original procurement provides justification.
  - IV. The reasonableness of the price and the unsuitability of alternatives to the goods or services in question merits the decision.
- c) The procuring entity seeks to enter into a contract with the supplier or contractor for research, experiment, study or development, except where the contract includes the production of goods in quantities to establish commercial viability or recover research and development costs; or
- d) The procuring entity applies this Law for procurement that concerns State security, and determines that single-source procurement is the most appropriate methods of procurement.
- e) A procurement entity may also engage in force account to procure minor works, goods and equipment in line with prior review thresholds set by the Board and receipts of benchmarks and a 'No Objection' from the Bureau.

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### 13.0 Tender Document

It is expected that for International Competitive Tendering and National Competitive Tendering Procuring Entities shall use the approved Standard Tendering/Bidding Documents (STDs) available on the Bureau's website at <https://bpp.pfm.yb.gov.ng/reports.aspx?id=2027>. To encourage participation of SMEs, Yobe BPP has issued guidelines to the extent that, Procurement Entities shall make this document available free of any cost to them.

For Procurement involving National Shopping/Request for Quotation, Procurement Entities shall use the Request for Quotation forms which is also available on the Bureau's website.

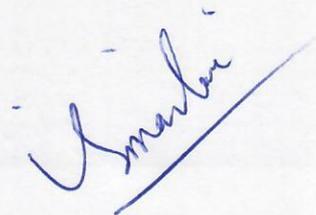
The Standard Bidding Document contains the following basic information:

- Invitation to Tenders;
- Instruction to Tenderers/Bidders;
- Bid Data Sheet;
- General Conditions of Contract;
- Special Conditions of Contract;
- Schedule of Requirements;
- Technical Specifications;
- Forms-Bid/Tender;
- Forms-Security

Bidding documents are presented in English.

Request for Proposals (RFP) may be used for the procurement of services or a combination of goods and services that are advisory or otherwise of a predominantly intellectual nature. The RFP may include but not limited to the following:

- Letter of Invitation;
- Instruction to Consultants (including the Data Sheet and the appendix on breakdown of remuneration rates as required);
- Technical Proposal- Standard Forms;
- Financial Proposal- Standard Forms
- Terms of Reference; and



- Standard Forms of Contract

#### **14.0 Terms of Reference**

Terms of reference (TOR) is the key document in the RFP. It ensures that both the Client and the Consultant are fully aware of the objectives and outputs of the services. Consultant services are expensive, and lack of careful thought, research and preparation of the Terms of Reference by the Client, may result in considerable waste of resources.

The Terms of Reference (TOR) shall provide sufficient information to enable consultants to fully understand the services required by the Client, and to prepare proposals that are realistic and competitive.

The TOR must be complete, precise, and clear to minimize request for clarifications from consultants. It must be prepared by staff with the requisite expertise. The Terms of Reference will normally contain the following headings:

- Background;
- Objectives;
- Scope of the Services;
- Transfer of Knowledge/Training (when appropriate);
- Deliverables;
- Assignment Reports and Schedule of Reports;
- Facilities, services and resources to be provided by the Client;
- Assignment Period;
- Assignment Management & Administration

#### **15.0 Completing Tender Documents**

When completing a tender document, a potential Bidder/Consultant should read the Instructions for Bidders/Consultants, which will contain all the information on how to complete and return the tender document. Specific requirements of the tender or the bid, for example, where to place attachments or whether an omission would invalidate the bid, will be highlighted in the Data Sheet.

#### **16.0 Filling Request for Quotation Forms**

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Yobe State has a Standard Request for Quotation (RFQ) form for use by procuring entities. Potential bidders should read the instructions carefully. The form has in the first part the item descriptions, the unit of measure and the quantity required, which will have been completed by the procuring entity. The bidder will be required to fill in the unit price, any discounts offered, the brand and country of origin of the goods quoted for, and to compute the price for each item, adding tax, shipping and miscellaneous costs to arrive at the total quoted price.

### **17.0 Submission of offers**

All bids in response to an invitation to Open Competitive Bidding shall be submitted in writing and, or any other format stipulated in the tender documents, signed by an official authorized to bind the bidder to a contract and placed in two sealed envelopes marked Original and Duplicate dropped at a time and place for submission specified in the bidding document.

To ensure wide participation of SMEs, Yobe BPP has issued new guidelines mandating Procuring Entities to accept electronic submission from Bidders.

### **18.0 Bid Security**

For the procurement of Goods, Works, and Services, the Procurement Law prescribes Procuring Entities to require a Bid/Proposal security. Such a security shall be in the amount and form specified in the request for bids/request for proposal document and shall remain valid for a period sufficient to provide reasonable time for the Procuring Entity to act if the security is to be called upon. This period is generally four (4) weeks beyond the validity period for the Bids/Proposals. The Bid securities of unsuccessful Bidders/Proposers shall be released once the contract is signed with the successful Bidder/Proposer.

Bid/Proposal securities shall be issued by a reputable bank, or a non-bank financial institution (such as an insurance, or bonding or surety company).

However, to encourage wide participation of SMEs in public procurement, Yobe BPP has issued additional guidelines (*SME Guidelines*) instructing

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Procuring Entities to accept from Bidders in SME category, a Bid/Proposal securing declaration instead of a Bid/Proposal security.

In the Bid/Proposal Securing Declaration, Bidders will accept that if they withdraw or modify their Bids/Proposals during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids/request for proposals document, they will be suspended for the period of time specified in the request for bids/request for proposals document from being eligible to submit Bids/Proposals for contracts with any Procurement Entity in Yobe State.

### **19.0 Bid Validity**

Potential bidders are required to submit bids/proposals that are valid for a period specified in the bid documents. The Bid/Proposal validity period shall be specified in the request for bids/request for proposal document shall be sufficient to enable the Borrower to:

- a) complete the comparison and evaluation of Bids/Proposals;
- b) obtain necessary approvals within the Borrower's entity;
- c) allow for Yobe BPP prior review, if required in the Procurement Plan; and
- d) award the contract.

### **20.0 Pricing and bid (proposal) validity**

Pricing for bids should be inclusive of all duties, taxes and other levies. The period of validity for a bid/proposal shall be the period specified in the tender documents. Most entities will require that the bid price be valid for up to three months after tender opening to cater for the evaluation, post tender negotiations and wider consultations when necessary.

The validity period required for a proposal is normally from a minimum of two to four months from proposal submission through evaluation, contract award and signature, depending on the complexity of the proposal.

### **21.0 Evaluation of Tenders**

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The award of all contracts shall be notified to the Bureau and shall be published on the Procuring Entity/Bureau's website with description of the contract, name of contractor/supplier and the contract price clearly stated.

### **25.0 Contract Performance Guarantee**

The provision of a Performance Guarantee shall be a precondition for the award of any procurement contract upon which any mobilization fee is to be paid, provided however it shall not be less than 10% of the contract value in any case or an amount equivalent to the mobilization fee requested by the supplier or contractor – whichever is higher.

In the case of SMEs, further to additional issued guidelines by Yobe BPP, Performance Guarantee shall not be required by Procuring Entities.

### **26.0 Mobilization Fees**

In addition to any other regulations as may be prescribed by the Bureau, a mobilization fee of no more than 40% to supplier or contractor may be paid subject to the approval of an Advance Payment Guarantee (APG) by the Bureau and supported by the following:

1. In the case of National Competitive Bidding - an unconditional bank guarantee or insurance bond issued by an institution acceptable to the Procuring Entity;
2. In the case of International Competitive Bidding - an unconditional bank guarantee issued by a banking institution acceptable to the Procuring Entity;
3. Once a mobilization fee has been paid to any supplier or contractor, no further payment shall be made to the supplier or contractor without an interim payment certificate issued in accordance with the contract agreement

Further to this, the Bureau has issued additional guidelines to the extent that for SMEs, mobilisation fee of 50% of Contract Price can be paid by Procuring Entities.

### **27.0 Variations and Price Adjustment and Additional Works**

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Evaluation criteria and methodology shall be specified in detail in the request for bids/request for proposals document

A preliminary evaluation is undertaken by an evaluation committee soon after opening tenders to ascertain that the tender has been submitted in the correct format, has been signed, and that the correct number of copies, tender security, validity and any required samples have been provided.

The evaluation criteria and methodology shall be appropriate to the type, nature, market conditions, and complexity of what is being procured. For international competitive procurement, the Procuring Entity's requirements for the submission of Bid/Proposal prices (format, structure and details), and method of comparison and evaluation of Bid/Proposal prices (including treatment of taxes levied), are detailed in the appropriate Bidding documents and are applied during evaluation.

The lowest cost evaluated responsive tender is usually awarded the contract, however, for some tenders, a marking scheme may be used considering life cycle cost. The recommendation for contract award by the evaluation committee will be submitted to the Tenders Board for approval.

The procuring entity has the right to reject all tenders received and to terminate the procurement proceedings at any time without entering into a contract.

## **22.0 Award and Signing of the Contract**

Prior to contract award, the Procuring Entity shall ensure that budgetary provision is confirmed to meet the cost of the contract. Thereafter, the Letter of Acceptance shall be issued within the validity period of the bid, and no sooner the final decision of contract award is completed. This Letter of Acceptance shall be free from any new conditions.

## **23.0 Notification to Unsuccessful Bidders**

All unsuccessful Consultants shall be notified immediately once the contract has been awarded.

## **24.0 Publication of Contract Awards**

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All contract prices shall be considered as fixed, and therefore not subject to any upward variation during the contract implementation, except under extraordinary circumstances and only upon prior approval of the Yobe State BPP which shall from time to time stipulate by regulation, the basis for allowing or computing the quantum of such variations.

Additional works, after necessary approvals and prior approval of Yobe State BPP, shall be charged to the contingency provision, in the first instance. In all instances, additional works shall not exceed 25% of the initial contract price

## **28.0 Terms of Payment**

### **28.1 Goods**

Processing of payment for goods commences after their receipt in store, verification that they meet specifications and signing of the delivery note. The standard terms of any payment is within 60 days of receipt in store.

### **28.2 Services**

Any payment due for services shall be within 60 days from the date of invoice after the user has confirmed that services meet the Service Level Agreement/Schedule of payments (milestones) which forms part of the service contract.

### **28.3 Works**

In major contracts for equipment and plant which may take some considerable time to complete, provision is normally made for progress payments on milestone achievements. Contracts for works provide in appropriate cases for mobilisation advances, advances on contractors equipment and materials, regular progress payments and reasonable retention amounts to be paid after full compliance with the contractor's obligations under the contract

## **29.0 Retention Money**

Retention money is a portion of the payments due under the contract which is retained to ensure performance by the supplier/contractor. When

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used as a guarantee, it shall not exceed 10% of the contract value. Instead of the Procuring Entity retaining part of the due payments, the supplier/contractor may also provide a money retention security in form of a bank guarantee or irrevocable Letter of Credit.

If the contract provides for both a performance guarantee and retention fees, the total amount of both performance guarantee and retention fee shall not exceed 20% of the contract sum.

### **30.0 Right of Bidders- Procedures for Administrative Review**

A bidder may seek administrative review for any omission or breach by a procuring or disposing entity under the provisions of the Yobe State Public Procurement Law, regulations or guidelines made under the law or the provisions of bidding documents.

A complaint by a bidder against a procuring or disposing entity shall first be submitted in writing to the Accounting Officer:

- a) within fifteen working days from the date the bidder first became aware of the circumstances giving rise to the complaint or should have become aware of the circumstances, whichever is earlier;
- b) on reviewing a complaint, the Accounting Officer shall make a decision in writing within fifteen (15) working days from receipt of complaint indicating the corrective measures to be taken if any, including the suspension of the proceedings where he deems it necessary and giving reasons for his decision; or
- c) where the Accounting Officer does not make a decision within the period specified; or
- d) If the bidder is not satisfied with the decision of the Accounting Officer, the bidder may make a complaint to the Bureau within ten (10) working days from the date of communication of the decision of the Accounting Officer.

Upon receipt of a complaint, the Bureau shall promptly:

- a) give notice of the complaint to the respective procuring or disposing entity and suspend any further action by the procuring or disposing entity until the Bureau has settled the matter:



- b) unless it dismisses the complaint:
- c) prohibit a procuring or disposing entity from taking any further action;
- d) nullify in whole or in part an unlawful act or decision made by the procuring or disposing entity ;
- e) declare the rules or principles that govern the subject matter of the complaint; and
- f) revise an improper decision by the procuring or disposing entity or substitute its own decision for such a decision.

Before taking any decision on a complaint, the Bureau shall notify all interested bidders of the complaint and may take into account representations from the bidders and from the respective procuring or disposing entity.

The Bureau shall make its decision within twenty-one working days after receiving the complaint, stating the reasons for its decisions and remedies granted, if any.

Where the Bureau fails to render its decision within the stipulated time, or the bidder is not satisfied with decision of the Bureau, the bidder may appeal to the High Court within thirty (30) days after the receipt of the decision of the Bureau, or expiration of the time stipulated for the Bureau to deliver a decision.

### **31.0 Statutory Deductions and Levies**

Bidders should note the following statutory deductions applicable to every contract sum upon award to SMEs in the State:

- Withholding Tax (WHT): 5%
- Value Added Tax (VAT): 7.5%

### **32.0 General Feedback**

Any complaint, observation or a need for further clarification may be forwarded to the contact below. Correspondence may include their details or may choose to be anonymous. All correspondence will be treated promptly and issues resolved with utmost regard for best practice:



Contact Address	Yobe State Bureau of Public Procurement, Damaturu Yobe
Phone Number/WhatsApp	0903 211 7746
E-mail	info@bpp.pfm.yb.gov.ng

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