



***Bidders' Guide to Success in
Public Procurement***

A Hand Book



National Procurement Agency

P R E F A C E

This "**Bidders Guide to Success in Public Procurement**" is a hand book emphasized all relevant and important details in public procurement and will be useful to enhance the knowledge of all bidders who could be treated as an important segment in the public procurement process.

This effort is to provide with them a hand book for their easy reference by outlining the steps of which should be taken into consideration and to prevent making errors in submitting bids.

We have observed that the most of the bidders are subject to make mistakes very often and faced the results of rejection of bids which will be an ultimate loss to the bidder as well as the Procuring Entity.

Therefore, all bidders should enhance their knowledge and be acquainted with the procurement process by following the '**Procurement Guidelines 2006 (Goods & Works)**', the '**Manual 2006**' and the '**Standard Bidding Documents**' (SDBs) which could be down loaded from www.npa.gov.lk . Those bidders who are involved in submitting bids on pharmaceutical and medical trade should adhere to the guideline released by us on '**Procurement of Pharmaceuticals & Medical Devices 2007**'.

I earnestly request to study and comply with Government Procurement Guidelines in order to ensure Transparency, Accountability, Fair Competition and Value for Money through efficient and effective Public Procurement System of the Country.

Daya Liyanage
Chairman/CEO
National Procurement Agency

Bidders' Guidance to Success in Public Procurement

1. How to know about Procurement Contracts

1.1 Advance Procurement Notice:

You are advised to visit NPA web site (www.npa.gov.lk) and the Websites of the Government Agencies regularly to obtain advance notices on future procurement requirements.

The Procuring Entities (PE) are required to publish their advance procurement notices of large contracts (Cabinet Appointed Procurement Committees and Ministry Procurement Committees) in the NPA website in addition to the ministry/agency website (Sri Lanka Government Web Portal) if any. Procuring Entities are also solicited to publish the advance notices of smaller value procurement in the ministry/agency website.

1.2 Procurement under National Shopping (Quotation) Procedure

You may get your names included in shortlists of suppliers/contractors, by responding to the advertisements of the Government Agencies requesting applications for registration and providing necessary information to satisfy the criteria used by the PE.

Subjected to the limits given in the Procurement Manual the PEs are permitted to follow procurement using shopping procedure. Where ever possible, the invitation for quotation will be sent to the contractors/suppliers who are registered as mentioned above under the PE. These registrations are generally done semi annually and annually.

1.3 Procurement under Limited Bidding Procedure

You may inform in advance of their specialization (Goods/Works) to the potential PEs and request the PE to invite bids when necessity arises.

When there are only limited suppliers for certain goods or specialised contractors for certain work are available, the PE may invite bids only from such bidders.

1.4 Procurement under National Competitive Bidding Procedure (NCB)

You may obtain information of bidding opportunities on all NCB contracts of Government agencies from the procurement notices published in the news papers/websites etc.

Large number of procurement under the Government agencies will be done by following NCB procedures. The PE must advertise each NCB procurement in national papers, and wherever possible in the websites.

1.5 Procurement under International Competitive Bidding Procedure (ICB)

You may collect information on Sri Lanka ICB contracts as 1.4 above. In addition, those who are interested in participating in international contracts of other countries may obtain information from international publications or visiting their websites such as UNDB (www.devbusiness.com) and DgMarket (www.dgmarket.com).

In addition to NCB procedures, the PE is required to give international publicity when ICB procedures are used. There should be no barrier for domestic bidders to participate in ICB bidding procedure, provided preference what so ever shall be given to foreign bidders. However, the domestic bidders and domestically manufactured products shall be given domestic preference as stipulated in the Procurement Guidelines 7.9.4 ; 7.9.5 & 7.9.6.

2. Factors to be considered by the bidders before participating in bidding

(a) Make sure you are not a blacklisted contractor:

Defaulted or Blacklisted Contractors /Suppliers:

Blacklisted contractors / suppliers are not eligible for the bidding and award of contract;

(b) ICTAD registration for work contracts:

In the case of work contracts, before purchasing the bidding documents make sure that the ICTAD registration requirements are fulfilled. A bid without the specified ICTAD registration will be rejected.

In the case of work contracts, to be eligible for contract awards, you should have valid registration under the national registration and grading system of Institute for Construction Training & Development (ICTAD) as specified in the bidding documents on the date of submission of bids as well as on the date of expiry of the original bid validity period; In the case of work contracts the PE is required to indicate the estimate of the construction component in the bid invitation;.

(c) Qualification and Experience:

You should be qualified to complete the works or supply the goods within the stipulated time period. You should examine the experience and qualification required and magnitude of the contract, to compare your strengths with those specified before participating in the bidding process.

The PEs are also advised to provide sufficient information in the bid invitation about the scope of the works/supply. This information will help you to decide in the participation for bidding, considering the magnitude of the works/supply and the current commitments. The bidding documents should also indicate the qualification, capacity and experience required for the award of contract.

(d) Free examination of Bidding Documents:

When in doubt, request the PE for free examination of the bidding documents before purchasing.

The PE will allow any prospective bidder to examine the bidding documents free of charge prior to purchase the same. This may be allowed by the PE at one location or many locations as specified in the bidding documents.

3. Purchase of Bidding Documents

- (a) Location:** You may purchase bidding documents from any of the locations specified. *The PE may specify one or more location/s for selling of bidding documents.*

- (b) **Time:** You should purchase the bidding documents only during the period and time specified in the bid invitation.

The PE will specify in the bid invitation, during what time the documents could be purchased. Generally the time will be limited to working hours of the PE. The bidding documents should be made available for purchase at least one day prior to closing of bids.

- (c) **Fees:** You shall make the payment in an amount and manner described in the bidding document, prior to the purchase of bidding document.

To purchase the bidding document the PE will specify a non refundable nominal fee (to cover the expenditure involve in duplicating a set of documents) to be paid by the bidder.

- (d) **Documents:** You shall produce the documentary evidence to prove that the specified fee has been paid.

The PE will request the bidders to submit documentary evidence to confirm that specified fee is paid. No other documents with respect to qualification or experience will be requested as a condition for purchase of bidding documents.

- (e) **ICTAD Registration:** You shall submit documentary evidence to prove the ICTAD registration in work contracts together with the bid. Failure to submit this evidence may be a reason for rejection.

ICTAD registration is not a pre-requisite to purchase the bidding documents. However, to be eligible for contract awards under work procurement, you should hold a valid and specified ICTAD registration at the time of submission of bids and at the last date of the original bid validity period.

If there are objections regarding the specifications from any bidder 10 days prior to closing of bids, in case of Procurements handled by CAPC, MPC & TEC may revisit specifications. The PE shall convey its decision to all bidders who have purchased the bidding documents. (Please refer to Guideline 2.6 of Chapter 2 of GPG 2006 and 6.1 of the Procurement Manual 2006)

4. Preparation of Bids:

You should prepare your bids following the instruction provided in the bidding document. You are strongly advised to study carefully the instructions given in the bidding document with special attention to the Instruction to Bidders and Bidding Data. Non compliance of the conditions given for preparing the bid in the bidding documents may be a rejection of the bid irrespective of the bid price.

A substantially responsive bid should be one which conforms to all terms, conditions and specifications of the bidding documents, without material deviation or reservation.

These requirements given in first paragraph of this section will include (but not limited to) the following:

- (a) **Scope of Work:** Nature of the work and under what circumstance the work has to be carried out. Whether extra measures and costs are involved in completing the works within the time period given ;
- (b) **Composition of the Bidding Document:** Ensure that all the sections listed in the bidding documents are received; It is your responsibility to ensure that you have received all the documents listed in the bidding document; if any document is missing, you must make a written request from the PE to obtain such documents ;
- (c) **Clarifications:** Study the bidding documents very carefully and makes clarification if any **in writing**. These clarifications may be based on the restriction of competition or fairness of specifications as described in the bidding documents or may be related to non compliance of the procedures by the PE. You are entitled to receive responses to any clarification made by you, if such clarification is received by the PE before the expiry of time period specified in the bidding documents; Even if this period is expired, you can seek clarifications any time before closing of bids.
- (d) **Amendments to Bidding Document:** If you receive any amendments to the bidding document, acknowledge the receipt of the same and study such documents and incorporate the requirements in the preparation of the bid. Request for a time extension to submit the bid, if material amendments are made to the bidding documents

- (e) **Site Visits:** Whether an official site visit is arranged by the PE or not, visit the project site very specially in work contracts to gather more information to have knowledge, under what circumstances and environmental conditions the contract will have to be performed.
- (f) **Pre-Bid meeting:** Participate at the Pre-bid meeting and make clarifications and demand for the minutes of such pre-bid meeting.
- (g) **Bid Currency:** Use only the currencies provided in the bidding document for pricing the bid. Use of non specified currency may result the rejection of bid.
- (h) **Bid Prices:**
To avoid difficulties during the execution of the contract, your attention should be made to the following:
 - i. When items have to be priced on different INCOTERMS under Goods contract, study carefully the risks and obligations involved in the supplier before prepare the price schedule.
 - ii. Select the correct price schedule in such situations.
 - iii. Generally in work contracts, items for which no rate or price is entered by you, will not be paid for by the PE when executed and shall be deemed covered by the other rates and prices in the Bills of Quantities.
 - iv. For Goods contracts if it is stated that you shall quote for all the items non pricing an item may be a reason for rejection of the bid.
 - v. Carefully examine the obligations on the payment of taxes and duties and other factors that should be included in the item price.
 - vi. Consider effect of bid validity period to the price quoted, especially when price fluctuation clauses are not included in the contract.
 - vii. Study the contractual obligations such as submission of insurance policies, performance security, related services, furnishing of samples, tests, incidental expenses and manuals which are not reimbursed directly under the contract.

5. Submission of Bids:

- (a) Include all relevant Forms and other information requested with the Bid:
- i. **Number of Copies:** The bid shall comprise with the original and number of copies as specified in the bidding documents; (Guideline 6.3.1C)
 - ii. **Bid Form:** The original and the copy of the Form of Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of you. Make sure the Form of Bid is addressed to the entity specified in the Instructions to Bidders of the bidding document, duly filled with respect to amount and validity period and your legal name is written correctly;
 - iii. **Amendments if any made by you:** If alterations or additions are made to the bid already prepared, initial such changes made by you signing the Bid.
 - iv. **Authority for signature:** Include documentary evidence for authority for signature of the person or persons who have signed the Bid, where requested in the bidding document;
 - v. **Bid Security:** Enclose the original of the Bid Security together with the original of the Bid; Make sure the Bid security is complying with the following (any critical departure to the format given, may be a rejection of bid at the preliminary examination itself, irrespective of the bid price):
 - format is the same as that issued with bidding document;
 - issued by an agency provided in the bidding document;
 - the amount of the bid security is not less than the amount specified; and
 - Validity date is equal or beyond the date specified.

- vi. **Eligibility**: Information required for the eligibility of the bidder (ICTAD registration, Business registration, Joint venture information etc.) (Please refer to Guidelines 5.3.4; 5.3.5; 5.3.6 & 5.3.7 of GPG 2006)
 - vii. **Qualification and Experience**: Provide all information requested to establish that you are qualified and experienced to perform the contract, as requested in the bidding document;
 - viii. **Domestic Preference**: When domestic preference is allowed in bid evaluation make sure to include all the information required to establish that you are entitled for domestic preference. (as per Guidelines 7.9.4; 7.9.5 & 7.9.6 of GPG 2006)
 - ix. **Test certificates**: Include all test certificates if requested in the bidding documents;
 - x. **Program**: Include a program of implementation in the details required in the bidding documents;
 - xi. **Resources**: Include a comprehensive information on men, finances and equipment that you will utilize for contract implementation, if requested in the bidding document.
- (b) **Alternative Bids**: Note that alternative bids can be submitted only if specifically stated in the bidding document. If an alternative bid is submitted, follow the specific instructions given. In many cases, it is required to submit a bid compliance with the original requirements to consider the alternative bid. The alternative bid may require a separate form of bid to sign and a separate bid security.
- (c) **Conditional Bids**: Conditional bids in many cases are subjected to rejection. If any condition is stated in the bidding document, make sure, it will not affect the substantial responsiveness of the bid; many conditions may lead to non responsive of the bid.
- (d) **Sealing and Marking of Bids**: Enclose the original and copies of the bid as instructed and write all relevant information in the respective envelopes and sealed the bids as instructed;

- (e) **Deadline for submission of Bids:** Have very clear advance knowledge about the exact bid receiving location. Always make an effort to be at the place sufficient time ahead of the official closing time to avoid discrepancy in times of different clocks. Bids shall be submitted to reach the PE before the deadline for submission of bids. Despite you are allowed to mail, hand deliver or deposit in a box, it is your responsibility to submit them before the deadline. Late bids will be returned unopened.

6. Bid Opening:

- (a) The PE will open bids only in one location;
- (b) You are highly encouraged to participate at bid opening; It is always advantage that a person who is knowledgeable on the enclosures of the bid to participate at bid opening;
- (c) Ensure that the bid is opened at the bid opening, the prices and discounts are correctly announced; a bid not announced at the bid opening may not be considered for evaluation;
- (d) Mark the attendance when requested by the PE.

7. Bid Evaluation

- (a) Note that the PE will consider only the information, you have submitted along with the bid, unless specifically requested by the PE;
- (b) Any information received from you will not be considered for evaluation, even if it was registered prior to closing of bids but PE received after closing of bids.
- (c) Be prompt to provide any further information or clarification requested by the PE
- (d) Any attempt made to influence the evaluation process may be a reason for rejection of the bid;
- (e) If a request is received from the PE to extend the validity of the bid if you decide to retain in the competition, extend the validity of the bid before the expiry of the original bid;
- (f) If the validity of the bid is extended, it may be required to extend the validity of the bid security;

- (g) Be ready with initial works, such as recruitment procedure of staff if necessary, specialized equipment, material supply and programming, in case you are expecting to be the successful bidder.

For further details on bid evaluation, you may refer to 7.9.1 & 7.9.2 of the Procurement Manual 2006 which is on the NPA Website.

8. Communication of Intention of Contract Award to the Bidders and Appeal Procedure

In the case of contracts where the determination of contract award was made by Cabinet Appointed Procurement Committee or Ministry Procurement Committee, the Secretary of the ministry will inform you in writing regarding the intention of contract award to the selected bidder, to make you representations against the determination made, if any.

8.1 The determination made by Cabinet Appointed Procurement Committee

Any bidder so wishes to make representation is required to submit its appeal within one week of the notification by the Secretary, to the **Procurement Appeal Board (PAB)** at the following address:

**The Chairman
Procurement Appeal Board
Presidential Secretariat
Colombo 01**

A copy of the Appeal should be submitted to the Secretary of the Ministry. A bidder making such an appeal is required to deposit Rs.50,000/- in a deposit account maintain at the Presidential Secretariat and attach a copy of the receipt together with the appeal. The appeal shall contain all material required to support the averment and shall be self-contained for the PAB to arrive at a decision.

8.2 The determination made by Ministry Procurement Committee

Any bidder so wishes to make representation is required to submit its appeal within one week of the notification by the Secretary, to the Secretary of the Ministry. A bidder making such an appeal is required to deposit if so specified in the bidding document and attach a copy of the receipt together with the appeal. The appeal shall contain all material required to support the averment and shall be self-contained for the Secretary to arrive at a decision.

9. Debriefing

After the notification of contract award, if you who wishes to ascertain the grounds on which your Bid was not selected, should address your request to the PE. In such a situation the PE should discuss only such Bid and not the bids of other competitors.

10. Formation of the Contract and signing Contract Agreement

Prior to expiration of the bid validity period, the Employer will notify the successful bidder that his Bid has been accepted. The notification of award in many cases will constitute the formation of the Contract.

Make sure that the contract agreement will incorporate the memorandum of understanding if any, between the Employer and the successful bidder, before the contract signature.

11. Immediate obligations to commence the Work:

- Make arrangements to submit the performance security in time;
- Obtain and submit the required insurance in time;
- Take over the site
- Make arrangements for the security of the site and personnel

12. During Contract Execution

- Submit the advance payment Guarantee and obtain the advance
- Submit interim claims monthly to avoid losses in price reimbursement claims;
- Always keep communication in writing;
- Provide timely notice and warning to the Employer on any delay
- Keep records right from the beginning.
- Obtain all certificates from the Engineer and the Employer as appropriate.

SPECIAL

1. Check very carefully all the documents including bid security against bid documents since mistakes done in bidding can be very expensive.
2. Opportunities provided at before opening and pre-bid meetings should be made use of as subsequent changes to conditions and specs are not possible.

Be vigilant; Be successful

For More Information

www.npa.gov.k

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