

L.N. 350 of 2016

**FINANCIAL ADMINISTRATION AND AUDIT ACT
(CAP. 174)**

Emergency Procurement Regulations, 2016

BY VIRTUE of the powers conferred by article 4 of the Financial Administration and Audit Act, the Minister for Finance has made the following regulations:-

1. The title of these regulations is the Emergency Procurement Regulations, 2016. Citation.

2. In these regulations, unless the context otherwise requires: Interpretation.

"Adjudication Board" shall mean the board or committee appointed by the contracting authority for the purpose of evaluating offers received by the contracting authority and for making definitive recommendations for the award following a competitive call under these regulations;

"bidder" shall mean the registered economic operator that presents an offer to the contracting authority following a competitive call;

"contracting authority" shall mean one of the government entities specified in the Schedule;

"economic operator" shall mean any natural or legal person or public entity or group of such persons and, or entities, including any temporary association of undertakings and shall cover equally the concepts of contractor, supplier and service provider;

"electronic platform" shall mean a platform administered by the contracting authority by which the registered contractors shall present their offers following a competitive call issued in accordance to these regulations or the government's e-procurement platform;

"emergency procurement" shall mean the procurement of supplies, services or works, which becomes necessary either due to an unforeseen surge in the use of supplies resulting in a month stock level, or which are otherwise necessary due to issues of national health, security or strategic importance;

"Minister" shall mean the Minister responsible for Finance;

"modification" shall mean any change, variation or amendment to the original terms of the contract including but not limited to the introduction of new conditions and to the removal or replacement of existing conditions;

"registered contractor" shall mean any economical operator that registers its interest with the contracting authority as indicated in these regulations.

Scope.

3. The scope of these regulations is to regulate emergency procurement procedures.

Contracting authorities.

4. The Minister shall determine which contracting authorities shall be included under the Schedule.

Estimated value of competitive call.

5. A competitive call provided for in these regulations shall have an estimated value which is less than one hundred and thirty five thousand euro (€135,000) excl. VAT.

Acquisition of the status of interested economic operator.

6. Any economic operator may acquire the status of interested economic operator by applying with the contracting authority, submitting the details of their company and relevant registration documents in line with the applicable laws, through the electronic platform setup by the contracting authority or through the government's e-procurement platform.

Publication of competitive call.

7. The contracting authority shall publish every competitive call through an electronic platform and shall alert every registered economic operator. If not published through the government's e-procurement platform, a notice of each publication will be issued in the Gazette prior to the date of submission of the call.

Time for receipt of offers.

8. A competitive public call published in accordance with these regulations shall have a minimum time limit for receipt of offers of four days from the date of publication. When issuing a competitive call under these regulations the contracting authority shall refer to this regulation in the published document.

Submission of offers.

9. The registered economic operators shall submit their offers following the publication of a competitive call by means of the electronic platform as set up by the contracting authority or through the government's e-procurement platform.

Appointment of Adjudication Board.

10. An Adjudication Board shall be appointed by the contracting authority to evaluate offers submitted. The Adjudication Board shall be composed of not less than three members namely a Chairperson, a Secretary and a Member, all having voting rights.

11. Any modification to a contract awarded under these regulations shall be prohibited. Where the contract cannot be executed without a modification, the contract shall be cancelled and a new procedure shall be issued.

Prohibition of modification to a contract.

12. Prior to the commencement of the evaluation of the offers presented, the contracting authority shall publish the list of bidders through the electronic platform as set up by the contracting authority or through the government's e-procurement platform.

Publication of list of bidders.

13. (1) Contracting authorities shall determine the award of public contracts on the following criteria:

Award of the call.

(a) the most economically advantageous offer; or

(b) the lowest price offered compliant with the published specifications.

(2) Where the award is made to the most economically advantageous offer, the contracting authorities may make use of various criteria relating to the subject matter of the contract.

(3) The criteria referred to in sub-regulation (1) may include any one or more of the following:

(a) technical specifications; and, or

(b) delivery conditions; and, or

(c) price indicated in the offer; and, or

(d) availability; and, or

(e) registration; and, or

(f) translations; and, or

(g) cost of courier; and, or

(h) cost of acquisition.

14. Following the conclusion of the adjudication process, all bidders shall be informed with the conclusions of the Adjudication Board through a result sheet that shall be published through the electronic platform. This sheet shall include:

Publication of decision of the Board,

(a) the criteria for award;

(b) the name of the successful bidder;

(c) the recommended price of the successful bidder;

(d) where applicable the reasons why the tenderer did not meet the technical specifications.

Publication of
awarded
contracts in the
Gazette.

15. Every six months, the contracting authority shall publish a list of contracts awarded under these regulations in the Gazette, which list shall include the details of the bidders that were awarded the contracts and the value of the contracts.

Schedule

(Regulation 2)

Contracting Authority

1. CPSU - Central Procurement Supplies Unit
 2. CPD - Civil Protection Department
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