

# PROCEDURES FOR SELECTION OF CONSULTANTS UNDER THE PUBLIC PROCUREMENT ACT, 2007

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## ACEN Annual Conference

*by*

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*BUREAU OF PUBLIC PROCUREMENT (BPP)*

**DATE:**  
**VENUE:**  
**TIME:**

**TUESDAY, NOVEMBER 22 , 2011**  
**Sheraton Hotel & Towers, Lagos**  
**9.00 AM**

# INTRODUCTION

## CONSULTANCY SERVICE:

- ❑ Is one of the *three legs* of engagement of contractors to provide services to an organization. Contractor is used here in general terms.
- ❑ The Other Legs are:
  - ✓ **Goods** . finished products, ready to use, off the shelf products
  - ✓ **Works** – involves fabrication, construction, ICT installations, generally involving creation of facilities using materials (goods)

# DEFINITIONS

□ Public Procurement Act (PPA) 2007 defines them as follows:

➤ **Goods:** are objects of every kind, description involving raw materials, products and equipment, objects in both liquid and gaseous form, electricity and services incidental to the supply of the goods.

➤ **Works:** all works associated with the construction, reconstruction, demolition, repair or renovation of a building structure or works such as site preparation, excavation, erection, building, installation of equipment or materials, decoration, furnishing, services incidental to construction

such as drilling, mapping, satellite photography, seismic investigation and similar services provided pursuant to the procurement of contract where the value of those services does not exceed that of the construction itself and;

- **Services:** the rendering by a contractor or consultant or supplier of his time and effort including any object of procurement other than goods, works or construction.

# SELECTION OF CONSULTANT (SERVICES)

## □ PART VIII SECTIONS (44) – (52)

- ✓ Where the needs are precise and ascertainable!!
  - . Advertised for Expression Of Interest (equivalent to pre-qualification for works) in at least two (2) National Newspapers and the Procurement Journal.
  - . If the value is less than N1m, a shortlist of at least of 3 consultants but more than 10 firms can be made stipulating:
    - i. Statement of qualifications
    - ii. Statement of understanding of the works
    - iii. Methodology
    - iv. Time frame for providing the service
    - v. Cost or fee for the service

## SELECTION OF CONSULTANTS CONTD...

- ✓ where the **Needs are not Ascertainable**-like for Research, Study or Development:
  - Advertise for Request For Proposals(RFP) in two(2) National Newspapers + Tender Journal
  - Direct requests to a limited number of consultants if the time required to evaluate large number of proposals would be disproportionate to the value of services, provided it invites enough consultants to ensure Transparent, Competition usually not more than ten(10) but not less than three(3).

# REQUEST FOR PROPOSAL(RFP)

## □ Any RFP must contain the following:

- ✓ Name & address of procuring entity
- ✓ Language of submission . usually English
- ✓ Manner, Place and deadline for the submission of proposals
- ✓ Criteria and procedures for the evaluation
- ✓ Requirement on documentary evidence or other information that shall be submitted by consultants

# Conto

- ✓ Nature of services to be rendered
- ✓ Whether alternative designs could be submitted by consultants
- ✓ Total cost of the proposal
- ✓ Method of choosing a successful bidder . Lowest cost, or quality and cost or a combination of the lowest cost, quality and criteria.
- ✓ Every consultant shall be provided with same information.

# RIGHT TO SEEK CLARIFICATION & MODIFICATION OF RFP-SECTION 47 (1-4)

## **Requires that:**

- ✓ A consultant shall be allowed to request for clarification from the MDAs
- ✓ MDAs as a result of this or on their own modify the RFP by issuing an addendum at any time prior to the submission of the bid.
- ✓ The addendum shall be submitted to all bidders/consultants
- ✓ Clarification meeting would be held with all bidders without the MDA identifying the source of the request for clarification.

# SUBMISSION OF PROPOSALS – SECTION (48)

## ❑ Requires that:

- ✓ Minimum of 30 days between the issuance of notice of request and deadline for submission.
- ✓ Technical and Financial proposal shall be submitted same time but in different envelopes
- ✓ Proposal received after the deadline shall be returned unopened to the sender.
- ✓ **At the close of submission of proposals:**
  - Technical Proposals shall be opened immediately first for evaluation
  - Financial Proposals shall remain sealed and kept in a secure bid box until they are opened publicly following the result of the technical evaluation
  - Technical Evaluation Committee shall not have access to or insight to the financial proposals until the evaluations are concluded.

# STANDARD REQUEST FOR PROPOSALS

- ” The Following Standard RFPs for selection of consultants have been issued by the Bureau and Consultants should get familiar with the documents on the BPP Website
- ” Individual Consultants
- ” Consulting Firms (small assignments time based)
- ” Consulting Firms (Complex Time Based)
- ” Consulting Firms (Lump Sum)
- ” Consulting Firms (Complex Lump Sum)
- ” General Conditions of Contract for Works
- ” General Conditions of Contract for Goods

# CRITERIA FOR EVALUATION

- MDA shall prescribe criteria and relative weight to be accorded to each criterion in the RFP in relation to:
  - i. Qualification of key personnel
  - ii. Effectiveness of proposal
  - iii. Proposed price
  - iv. Extent of participation by local personnel, transfer of Technology etc.
  - v. A margin of preference may be accorded local consultants

# SELECTION OF WINNING PROPOSAL

- ❖ Winning Proposal shall be:
  - ✓ One with the ***best combined evaluation*** in terms of the criteria in the case of ***quality & cost based selection***
  - ✓ One with the ***lowest price*** in the case of ***least cost selection***.
  - ✓ One with ***highest ranked*** Technical Proposal within budget.
  - ✓ The Consultant with winning proposal shall be ***invited for negotiation*** which shall **focus** mainly on the ***Technical Proposals***.
  - ✓ The proposed unit rates for ***staff-months*** and ***reimbursable*** shall **not be negotiated** unless there are **exceptional reasons**.

# PROCUREMENT METHODS AND THRESHOLDS OF APPLICATION

Procurement/ Selection Method and Prequalificatio n	Goods	Works (N)	Non-Consultant Services (N)	Consultant Services (N)
International/ National Competitive Bidding	N100 million and above	N1 billion and above	N100 million and above	Not Applicable
National Competitive Bidding	N2.5 million and above but less than N100 million	N2.5 million and above but less than N1 billion	N2.5 million and above but less than N100 million	Not Applicable
Shopping (Market Survey)	Less than N2.5 million	Less than N2.5 million	Less than N2.5 million	Not Applicable
Single Source/ Direct Contracting (Minor value procurements)	Less than N0.25 million	Less than N0.25 million	Less than N0.25 million	Less than N0.25 million
Prequalification	N100 million and above	N300 million and above	N100 million and above	Not Applicable
Quality and Cost Based	Not Applicable	Not Applicable	Not Applicable	N25 million and above
Consultant Qualifications	Not Applicable	Not Applicable	Not Applicable	Less than N25 million

# Contd.

## □ Note that:

- **ONLY PROJECTS** in excess of **₦300m** for **Works** and **₦100m** for **Goods & Services** qualify for **Pre-qualification**.
- In other words Ministries/Department / Agencies (**MDAs**) should go **straight to invite Bids for Tender** for projects **costing less than ₦100m** for **Goods (Supply Items)** and **₦300m** for **Works (Construction)**

# CHALLENGES

- “ Over design
- “ Overscoping
- “ approval for a design which does not meet National Building Code . so many examples of collapsed buildings in different parts of the country.
- “ rather than prepare a functional fit-for-purpose design or specification, consultant or the design engineer specifies a product or design with which only the preferred contractor or OEM can comply, thus enabling contractor or OEM win the bid at an inflated price.
- “ Consultant deliberately submits an over sophisticated design at a very high cost which will result in greater profit for the contractor.
- “ design consultant specifies a supplier company which is secretly owned by the official.
- “ A design consultant pays bribe to the project engineer to conceal any design defects.

# CHALLENGES Contd

“ In preparing a Work Scope or Bill of Quantities, an Engineering Consultant or Quantity Surveyor over specifies or increases the scope of work in the tender document knowing fully well that a lesser scope is actually required to deliver the works and then shares the Excess Scope with a preferred contractor who tenders for the Real Scope at a reduced price and wins the contract while other Bidders who quoted for the tendered scope have overpriced the works.

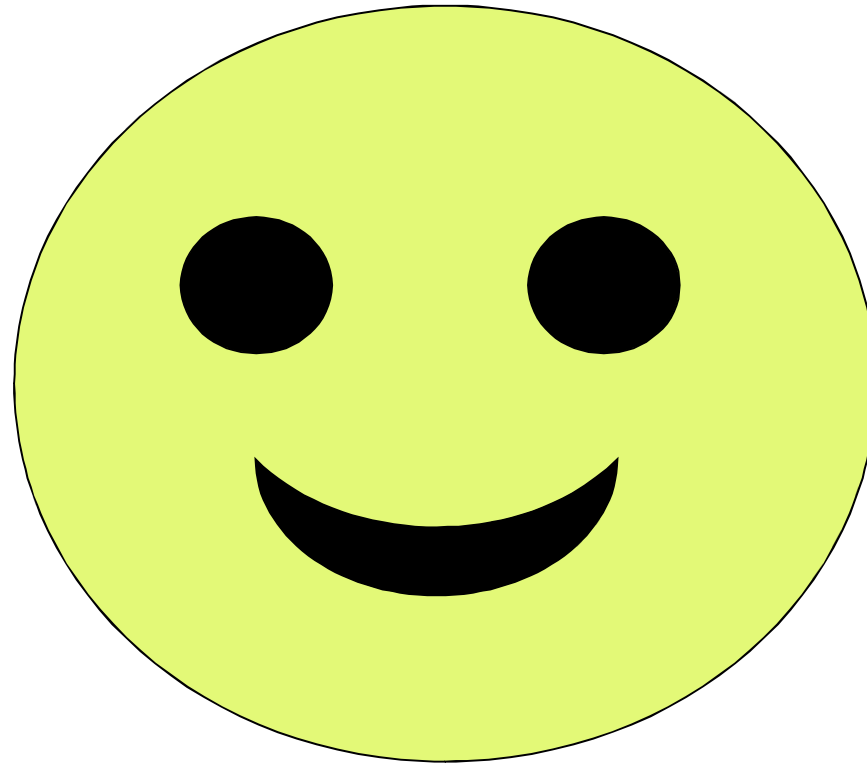
“ Supervision - Conniving with Contractors to overstate claims

- Certifying poor quality job.

## CONCLUSION cont'd.

**“DON'T DO THE WRONG  
THING TO KEEP A FRIEND  
OR TO MAKE ONE”**

- SRI HAROLD



**Thank You!**