

# Open Contracting Disclosure Guideline

## 1. Introduction

The Public Procurement Act 2007 (PPA) establishes the Bureau of Public Procurement (BPP) as the regulatory authority responsible for the monitoring and oversight of public procurement, harmonizing the existing Government policies and practices by regulating, setting standards and developing the legal Guideline and professional capacity for public procurement in Nigeria[1]. The PPA requires the BPP as part of its functions to 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[2].

The Freedom of Information Act, 2011 (FoIA) provides for public access to public records and information. The FoIA provides that a public institution shall cause to be published “materials containing information relating to any grant or contract made by or between the institution and another public institution or private organization”[3]. Section 4 of the FoIA provides that a public institution shall ensure that information disclosed is widely disseminated and made available to the public through various means including print, electronic and online sources[4].

Additionally, Commitment 2 of the Open Government Partnership (2019-2019) state that Nigeria will ensure full implementation of Open Contracting and adoption of Open Contracting Data Standard in the public sector. In line with the global principles of Open Contracting, the Federal Government is required to ensure the timely, current, and routine publication of enough information about the formation, award, execution, performance, and completion of public contracts to enable the public, including media and civil society, to understand and monitor as a safeguard against inefficient, ineffective, or corrupt use of public resources.

BPP recognizes that opening up public procurement through increased disclosure of procurement information to all stakeholders will ensure improved transparency and competition, prevent corruption, enhance Civil Society Organisation (CSOs) and citizen participation, towards achieving increased accountability for effective monitoring and oversight. BPP also recognizes that disclosure of public procurement information through National Open Contracting Portal (NOCOPO) is fundamental to delivering on its function as stipulated in Section 5(r) of the Public Procurement Act, 2017 which states that the BPP shall 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. Therefore, the BPP has developed this Guideline for disclosure for public procurement processes, contracts and project, so as to ensure significant information is made available to the public. This Guideline sets out the disclosure template and timelines for disclosure at pre as well as post procurement stages. BPP expects that the expanded access to information will lead to better service delivery and promote ease of doing business in Nigeria.

The objective of this Open Contracting Disclosure Guideline is to provide guidance to enable systematic and organized disclosure of information at different stages of the public procurement process and to bring existing guidelines up to date with extant laws. The Guideline and associated standardized template presented here hold out the promise of raising the standard of transparency and accountability around

public procurement. Since disclosure is an evolving area, the Guideline remains a work in progress. It will be revisited and revised every 3 years, if and as required.

## 2. Application

This Open Contracting Disclosure Guideline will apply to all public procurements to which the PPA applies and scope of application of PPA as stipulated in Section 15 of PPA.

## 3. Specific disclosure

Specific disclosures will consist of the elements included in sub-sections (a) to (h) below, and will follow the template provided in Annex 1. Confidential information as provided under Section 4 below will be redacted before publication.

- a. Planning stage information
- b. Tender stage information
- c. Award stage information
- d. Contract stage information
- e. Implementation stage information

### *Summary of specific disclosures and timelines*

S/n	Document/Information	Contents	Producer	Approver for public disclosure	Time of Disclosure
A	<b>Planning</b>				
1	Budget	* Budget Description *Budget Value *Budget Code	PE	PE/BPP	30 days after approval by President
2	Procurement Plans	Details of procurement plans	PE	BPP	1 <sup>st</sup> quarter
3	Procurement Method	*Proposed Procurement Method *Justification	PE	PE/BPP	

4	Scope of Work/Services	Brief of Terms of Reference/scope of work/services/specifications	PE	PE/BPP	
5	Proposed Opening dates for prequalification and tender	*Proposed Prequalification Opening Date *Shortlist Publishing Date *Proposed Tendering Period *Proposed Bid Opening Date			
<b>B</b>	<b>Tender</b>				
1	EOI	Date published	PE	PE/BPP	1 to 5 working days
2	Short List	List of shortlisted firms	PE	PE/BPP	2 wks after approval
3	Prequalification	Prequalification period	PE	PE/BPP	
4	Prequalified bidders List	List of prequalified companies	PE	PE/BPP	ditto
5	Procurement Method	Procurement Method and justification			
6	Bid Invitation	Date issued	PE	PE/BPP	
7	Bid Opening Date	Date of bid opening	PE	PE/BPP	

8	Summary of Evaluation Report	*Number of bidders *Price submitted by all bidders *The recommended bidder *Justification for recommendation			
<b>C</b>	<b>Award</b>				
1	Tender Boards Consideration	Date of TB consideration	PE	PE/BPP	
2	BPP Prior-Review	Date of issuance of Certificate of 'No Objection'	PE	PE/BPP	
3	FEC Approval	*Date of FEC Approval	PE	PE/BPP	
4	Tenders Board Approval	Date of TB approval	PE	PE/BPP	
5	Details of Award	*Value *Name(s) of contractor(s) *Completion period	PE	PE/BPP	2 to 4 wks after issuance of award
<b>D</b>	<b>Contract Agreement</b>				
1	Contract Title	Contract description	PE	PE/BPP	1 to 2 wks
2	Date Contract signed	*Date contract was signed	PE	PE/BPP	
3	Contract period	*Agreed contract period	PE	PE/BPP	

4	Contract Status	*Status of the contract per time	PE	PE/BPP	Quarterly
<b>E</b>	<b>Implementation</b>				
1	Payments	Payment details to date	PE	PE/BPP	Quarterly
2	Project Location	Address of the project	PE	PE/BPP	2 wks after award
3	Progress updates	Status of the project	PE	PE/BPP	
4	Amendments	Amendment to project such as Variations	PE	PE/BPP	1 wk after variation approval
5	Final Cost	Final project cost	PE	PE/BPP	2 weeks after completion certification
6	Completion Report	Completion Report	PE	PE/BPP	

#### 4. Confidential information

Section 15 of the FOIA 2011, provides for the exemption of confidential information from public disclosure. It defines confidential information to include trade secrets and commercial or financial information obtained from a person or business, which are proprietary or privileged, the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, commercially sensitive intellectual property rights and know-how of either of a third party.

- (a) For the purposes of this Guideline, the following elements will be considered as confidential. However, these elements will be reviewed every 2-3 years for any modifications:
- (i) Proposals/Bids submitted by bidders
  - (ii) Intellectual property
  - (iii) The base case financial model by bidders

- (iv) Bid evaluation reports
- (v) Trade secrets

#### 5. *Method of Disclosure*

All information and documents will be published on a web-based platform, National Open Contracting Portal[5] (NOCOPO) owned by the BPP, and any other form of communication and dissemination prescribed by the BPP[6]. The NOCOPO shall be the primary and definitive source of publication on all Procuring Entities' websites (either through provision of linkages or integration) and other form of communication and dissemination[7].

#### 6. Responsibilities for Disclosure

- (a) The duty for information generation and uploading on the web-based platform will be shared by the BPP and the Procuring Entity.
- (b) Information will be uploaded by the Procuring Entity and BPP after redacting confidential information.
- (c) The Procuring Entity will upload all information and documents in the web-based platform NOCOPO so as to leave at least 7 full working days within the given timelines for the BPP to validate and approve the information for public disclosure. The project implementation information and any other information as required by the BPP will be provided by the Procuring Entity from time to time.

#### 7. Validation of information prior to disclosure

The BPP shall in consultation with the Procuring Entity (private party(ies) and observers if necessary), verify the accuracy of the information to be disclosed before such disclosures are made using the feedback mechanism on NOCOPO portal and other means possible.

- a) All information shall be validated by the Director Regulations & Database Department of the BPP before publication on the NOCOPO.
- b) All contracts shall be checked to ensure exclusion of confidential information prior to disclosure.

**Annex 1: Disclosure format**

<b>Planning</b>	<b>Tender</b>	<b>Award</b>	<b>Contract</b>	<b>Implementation</b>
Project Title	Tender Title	Award Title	Contract Title	Project Status
Budget Code	Tender Status	Award Status	Contract Status	Completion as at
Budget Description	Item Description	Award Date	Date Contract Signed	ate
Budget Year	Actual Procurement	Award to Lowest	Contract Period	Amount Paid as at
Budget Amount	Method	Price?		ate
Procurement Method	Procurement Method	Justification for		Total Cost
Procurement Category	Rationale	Award		Why Contract
Qualification Advertisement	Tender Selection			Variation?
ate	Method			Total Revised
Qualification Opening	Tendering Period			Contract Amount
ate	Opening Date			
Shortlist Publishing Date	Number of Tenderers			
Tendering Period				
Opening Date				
Contract Award Date				

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[1] See the Long title and Summary of the Content of the Public Procurement Act, 2007 (PPA)

[2] See Section 5(r) of the Public Procurement Act, 2007

[3] See Section 2 of FOIA See Section 2, 3, 4 Freedom of Information Act, 2011

[4] See Section 2, 3, 4 Freedom of Information Act, 2011

[5] See Section 5(r) of the PPA

[6] See Section 19(j) of the PPA

[7] See Section 5(r) of the PPA