

PROCUREMENT AND CONTRACTS POLICY



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ARTICLE 1. POLICY STATEMENT

This policy establishes standards and guidelines for procurement and contract management critical to upholding Lydia Action's highest levels of integrity. This policy ensures that procurement procedures adhere to open and competitive processes, and that contracts are managed using good practices in accordance to the laws of Malawi.

ARTICLE 2. PURPOSE OF POLICY

The purpose of this policy is, in relation to procurement and contracts, to:

- i.** Establish guidelines to guarantee that Lydia Action achieves value for money in a fair, transparent, and ethical manner.
- ii.** Build our stakeholders' trust by ensuring that Lydia Action follows our core value of stewardship and strong risk management practices.
- iii.** Assist management as well as all employees to adhere to robust, effective and efficient processes in procurement and contracts.

ARTICLE 3. POLICY SCOPE

This policy governs all Lydia Action procurement processes and contracts excluding programme expenditure and employment contracts.

ARTICLE 4. BIDDING PROCESS

To govern a bidding process, Lydia Action follows the below guide:

1. PUBLICATION OF INVITATION TO BID

Lydia Action shall publish an invitation to tender, or an invitation to prequalify in two national widely circulated media platforms and, in the case of international tendering, shall also be published in internationally recognized media of wide circulation, including the Lydia Action website.

2. BIDDING DOCUMENTS AND INFORMATION

Lydia Action shall:

2.1. Provide bidding documents to all bidders responding to the invitation to tender or, in the event of pre-qualification proceedings, to all bidders that have been pre-qualified;

2.2. Provide bidders with the information that they require to submit bids that are responsive to the needs of the procuring and disposing entity; and include the terms and conditions of the resultant contract.

2.3. Provide a fee where a charge for the bidding documents is required; such a fee shall only reflect the cost of printing and distributing the documents.

2.4. Provide the same information to all bidders.

2.5. Provide timely response to any request by a bidder for clarification of the bidding documents. Such requests for clarification shall be circulated to all participating bidders.

3. SUBMISSION OF BIDS

3.1. A bid shall be submitted in written form as instructed in the bidding document.

3.2. A bidding document may provide for submission of bids electronically and physically;

3.3. Bidding information shall protect the confidentiality of bidders' bids, and to ensure their authenticity and integrity.

3.4. Lydia Action shall, upon request, provide to a bidder a receipt showing the date and time when its tender was received.

3.5. The deadline for submission of bids shall be set taking into account the nature of the procurement process and the time required for the preparation of bids.

4. BIDDING PERIOD

The minimum bidding periods for the various procurements shall be as follows:

4.1. International competitive bidding-forty-five (45) days;

4.2. National competitive bidding-thirty (30) days;

4.3. Restricted tender-twenty-one (21) days;

4.4. Request for proposals-twenty-one (21) days;

4.5. Request for quotation method-five (5) days;

4.6. Single sourcing-five (5) days; and

4.7. Single sourcing in an emergency-twenty-four (24) hours;

5. REQUEST FOR A WAIVER

5.1. The procurement committee may

seek a waiver from the Executive Director to carry out specific procurement for a shorter period than provided in this section.

6. BID OPENING

6.1. Bids shall be opened at the time and place indicated in the bidding document, and the time of opening of the bids shall coincide with the deadline for submission of bids.

6.2. Bidders or their respective representatives may attend the opening of bids at the designated addresses provided by Lydia Action

7. BID EVALUATION

7.1. The choice of evaluation methodology shall be determined by the type, value and complexity of the procurement or disposal requirement and shall be done in accordance with this policy and as may be prescribed by the laws of Malawi.

7.2. Bids shall be evaluated and compared only in accordance with the criteria, and their relative weight, as set forth in the bidding document.

7.3. Bids containing non-material deviations may be evaluated, with the deviations being quantified in the manner indicated in the bidding documents.

7.4. No negotiations whatsoever may be held with bidders as to the substance or prices of their bids.

7.5. Lydia Action may only seek clarifications of bids, and may not solicit or accept changes in the substance or prices of bids.

7.6. In the evaluation of bids, Lydia Action may apply a margin of price preference in favor of domestic or regional bidders in accordance with the regulations, provided that such application has been disclosed in the bidding

documents.

7.7. A successful bid shall be the average evaluated bidder subject to any margin of preference provided in the bidding documents. Alternatively, if so stipulated in the bidding documents, the successful bid shall be the average evaluated on the basis of price and subject to any margin of preference, and non-price criteria specified in the bidding documents.

7.8. Non-price criteria shall, to the extent practicable, be objective and quantifiable, and shall be given a relative weight in the evaluation procedure or be expressed in monetary terms, wherever practicable.

7.9. Lydia Action will release payments in installments as stipulated in the procurement contact based on agreed deliverables with the supplier as security for the performance of the contract.

ARTICLE 5. NEGOTIATIONS AND AWARD OF CONTRACT

5.1. NEGOTIATION

5.1.1. Lydia Action may invite the average evaluated bidder for negotiations aimed at finalizing the award of the contract.

5.1.2. Negotiations shall not relate to the price of the bid, except in the case of single sourcing or where the price of the bid has not been taken into account in the evaluation method.

5.1.3. If the negotiations with the average evaluated bidder fail to result in an acceptably agreed contract, the procurement committee shall, by letter addressed to that bidder, terminate the negotiations and invite the next ranked bidder for negotiations.

5.2. AWARD OF CONTRACT

5.2.1. The Lydia Action shall publish the intention to award contract in two widely circulated media outlets and on Lydia Action's website for a period of fourteen days for any procurement contract above a threshold to be set by the Executive Director before signing the contract.

5.2.2. Subject to all mutual agreements in accordance to this policy no objection be issued in pursuance of this policy or subsidiary legislation thereunder, and in notice of acceptance of the bid, shall be given to the successful bidder and Lydia Action.

5.2.3. All contracts shall be prepared in the manner prescribed in the appropriate standard bidding document issued by the Executive Director.

ARTICLE 6. SUPPLIERS AND BIDDERS

6.2. ELIGIBILITY AND QUALIFICATION CRITERIA FOR SUPPLIERS

In order to enter into a procurement contract, a bidder of bidders shall qualify by meeting the criteria that Lydia Action considers as appropriate. To be eligible to be awarded a procurement contract, a bidder shall-

- 6.2.1.** Be a legally registered business with the Registrar of Companies or such other relevant entity as may be prescribed by government regulations;
- 6.2.2.** Be tax and public procurement and disposal regulations compliant.
- 6.2.3.** Be Professional and technically qualified to deliver quality work.
- 6.2.4.** Have financial capacity to successfully execute the assignment.

- 6.2.5.** Meet necessary financial conditions including having an active bank account
- 6.2.6.** Have necessary equipment and other physical facilities;
- 6.2.7.** Have necessary personnel and managerial capability; and
- 6.2.8.** Have past performance and business references within a period of years prescribed by the Internal procurement and Disposal committee in the contract description.

6.3. SUPPLIER DATABASE OR LIST

The Finance and procurement office under the supervision of the Executive Director in coordination with the procurement committee shall organize and maintain a centralized system, in the form of a database or list, to provide centralized information on potential past and present suppliers of goods, works or services.

- 6.3.1.** The Finance and procurement office in coordination with the procurement committee shall organize and maintain its own systemized database of potential suppliers and shall submit such list to the Executive Director for approval prior to its use.

- 6.3.2.** The detailed procedures for compilation and maintenance of such databases and lists shall be prescribed by the Finance and procurement office approved by the Executive Director.

6.4. CONDUCT OF SUPPLIER

Bidders and suppliers shall not abet or engage in: -

- Corrupt practices, such as the offering of improper inducements;
- Fraudulent practices, including misrepresentation of facts in order to influence a procurement process or the execution of a contract.
- Collusion among bidders, prior to or after bid submission, intended to establish bid prices at artificial, non-competitive levels and to deprive Lydia Action of benefits of free and open competition.
- Any information concerning the occurrence or attempt of malpractices shall be reported immediately to the head of the procurement committee, and seek advice in accordance to the laws of Malawi.

6.5. EXCLUSION OF SUPPLIERS

The Procurement committee with approval from the Executive Director may exclude a supplier, contractor, consultant or any bidder from participation in public procurement for any misconduct prescribed in this policy in accordance with regulations procedures. A supplier or a bidder may be excluded from participation in public procurement proceedings on the following grounds: -

- Refusal by a successful bidder to sign a procurement contract and agree on financial payment schedules in accordance with the terms of the bidding documents;
- Supplying false information supplied in its bid;
- Collusion between the bidder and a Lydia Action employee pertaining to the bidding process;
- Collusion amongst bidders aimed at fixing prices at artificial and non-competitive levels;
- Conviction of a criminal offence relating to obtaining or attempting to obtain a contract or subcontract; or
- Conviction of an offence under the Corrupt Practices Act or the Financial Crimes Act; or
- Breach of contractual obligations. A bidder or supplier initially found liable of misconduct or going through investigations with other organizations

ARTICLE 7. NON-CONTRACTED GOODS AND SERVICES

7.1. Non-contracted products and services that fall under the minimum purchase threshold of Lydia Action's financial manual must be conducted by acquiring and evaluating three quotations from different supplier to guarantee transparency, accountability, and value for money. A brief justification should be written. This is followed by a copy of the purchase order, invoice, and goods receipt.

ARTICLE 8. PROCUREMENT INTEGRITY

Any Lydia Action Staff involved in requisitioning, planning, preparing and conducting procurement proceedings, disposal processes, and implementation of procurement and disposal contracts, shall-

- Discharge their duties impartially so as to ensure fair and competitive access to procurement opportunities by suppliers;
- Always act in the interest, and in accordance with the objectives and procedures set out in this policy;
- At all times, avoid conflicts of interest, and the appearance of impropriety in carrying out their duties and conducting 'themselves, and shall not interfere in the work of the Internal Procurement and Disposal Committee;
- Not commit or abet in any corrupt or fraudulent practice, including the solicitation or acceptance of improper inducements;
- Not interfere with or exert undue influence on any person to affect a procurement or disposal activity or decision;
- Keep confidential any information that comes into their possession relating to procurement proceedings or disposal processes, including bidders' proprietary information
- Not get involved in the implementation of a procurement contract on behalf of a private organization with their previous employer.
- Not disclose to any party with an interest in the procurement or, disposal process, during and after the procurement or disposal proceedings, any information which may materially affect the implementation of the procurement or disposal process as prescribed in the regulations.

ARTICLE 9. AMENDMENT OF A SIGNED PROCUREMENT CONTRACT

9.1. All amendments to a signed procurement contract shall require the approval of the Internal Procurement Disposal Committee approved by the Executive Director and shall be reviewed and agreed with the supplier.

ARTICLE 10. CONTRACT MANAGEMENT

Lydia Action shall be responsible for the administration of procurement contracts into which they enter, and to that end, it shall establish procedures for contract administration and provide the necessary agreed material and human resources for their implementation.

The Finance and procurement office under the supervision of Lydia Action's Internal

Procurement Disposal Committee shall ensure that the supplier, contractor or consultant delivers on the contract in accordance with the specified and agreed terms and conditions.

ARTICLE 11. LINKAGE

- Public Procurement and Disposal of Public Assets Act, 2016,
- Lydia Action anti-corruption Act

ARTICLE 12. ENTRY INTO FORCE

This Procurement and Contracts Policy comes into effect after approval by the Chairperson of the board of trustees of Lydia Action on 21 day of 09 20 21

Chairperson:

Samuel S. Mbiri

Signature:



A better world
for everyone.