

DECREE No. **2018/0002** /PM OF **05 JAN 2018**
to lay down the terms and conditions for online procurement
procedures in Cameroon.

The Prime Minister, Head of Government,

Mindful of the Constitution;

Mindful of Law No. 2000/010 of 19 December 2000 governing archives;

Mindful of Law No. 2010/012 of 21 December 2010 relating to cyber security and cybercrime in Cameroon;

Mindful of Law No. 2010/013 of 21 December 2010 governing online communication in Cameroon, as amended and supplemented by Law No. 2015/006 of 20 April 2015;

Mindful of Decree No. 92/089 of 4 May 1992 to specify the duties of the Prime Minister, as amended and supplemented by Decree No. 95/145(b) of 4 August 1995;

Mindful of Decree No. 2004/275 of 24 September 2004 instituting the Public Contracts Code;

Mindful of Decree No. 2011/408 of 9 December 2011 to organise the Government;

Mindful of Decree No. 2011/409 of 9 December 2011 to appoint a Prime Minister, Head of Government;

Mindful of Decree No. 2012/074 of 8 March 2012 relating to the establishment, organisation and functioning of Public Tenders Boards, as amended and supplemented by Decree No. 2013/271 of 5 August 2013;

Mindful of Decree No. 2012/075 of 8 March 2012 to organise the Ministry of Public Contracts;

Mindful of Decree No. 2018/0001/PM of 5 January 2018 to establish a public procurement dematerialisation platform and lay down rules for its use,

Hereby decrees as follows:

CHAPTER I
GENERAL PROVISIONS

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ARTICLE 1.- (1) This decree lays down the terms and conditions for online procurement in Cameroon.

It lays down rules applicable to:

- online programming of public contracts;
- the publication of tenders and obtaining related documents online;
- the procedure for submission of bids;
- the review of bids and award of contracts;
- the signing and notification of contracts and jobbing orders;
- the procedure for archiving data related to contracts awarded online.

(2) The procurement process mentioned in paragraph 1 above shall be done on the *Cameroon Online E-Procurement System (COLEPS)*, hereinafter referred to as “the dematerialisation platform”.

ARTICLE 2.- Within the meaning of this decree and its implementing instruments, the following definitions shall apply:

- a) **Electronic certificate:** an online document secured by the digital signature of its issuer, which attests to the authenticity of its content;
- b) **Encryption:** a process of coding information with the use of a secret key to make it unreadable to unauthorised users with no knowledge of the key;
- c) **Backup copy:** a duplicate of electronic application files and bids, meant to replace electronic application files and bids in case of specifically listed anomalies;
- d) **Encoding:** the process of converting information into a code that is unintelligible to third parties;
- e) **Decryption:** a reverse encryption operation;
- f) **Dematerialisation:** the replacement of physical documents or manual procedures with digital documents or automated methods. It involves the use of automated and paperless methods of processing, exchanging and storing information;
- g) **Bidding document:** any document or file containing information related to a tender; this includes a bidding document or any document serving that purpose;
- h) **Electronic document :** all data recorded or stored in any device by a computer system or similar device and which can be read or viewed by someone or by such a system or device;
- i) **Electronic physical document:** an electronic document on a removable device.
- j) **Date and time stamping:** a technique aimed at recording the date and time of actions and events in order to trace all access, activities and updates performed on the platform, in ways that can be used as evidence;
- k) **Malicious computer programme:** any programme or file that is harmful to the computer. Malicious programmes survive on the computer through replication or by interfering with the computer's programmes or memory etc.;

i) **Rematerialisation:** a reverse dematerialisation operation;

m) **Electronic signature:** a signature someone affixes to an electronic document which authenticates the identity of the sender of a message.

CHAPTER II

PROGRAMMING, PUBLICATION OF TENDERS AND SUBMISSION OF BIDS

SECTION I

ONLINE PROGRAMMING OF CONTRACTS AND PUBLICATION OF TENDERS

ARTICLE 3.- (1) Public contracts published via an electronic medium shall be subject to prior online programming.

(2) The conditions and procedure of the programming referred to in paragraph (1) above shall be laid down by Order of the Minister in charge of Public Contracts.

ARTICLE 4.- Documents related to the tender shall, in addition to the items mentioned in the Public Contracts Code, contain the link to download the said documents.

ARTICLE 5.- (1) The documents referred to in Article 4 above shall be signed by the Contracting Authority using an electronic certificate. They shall be published on the dematerialisation platform following the procedures provided for by the Public Contracts Code.

(2) For expressions of interest, signing shall be done by the Project Owner.

(3) The signature referred to in paragraph 1 above shall be generated by an electronic certificate acquired from the competent authorities under conditions provided for by regulations in force.

ARTICLE 6.- (1) The bidding documents shall be uploaded to the dematerialisation platform by the Contracting Authority, in a common and widely available format, to ensure free, direct and full access by bidders.

(2) The bidding documents shall especially indicate the method of response, the composition of online bids and the file formats to be submitted. Non-compliance with the said formats shall lead to the inadmissibility of the bid.

(3) The list of documents to be provided must be specified in the bidding documents.

ARTICLE 7.- (1) The Contracting Authority shall be required to store on a physical medium copies of bidding documents uploaded on the dematerialisation platform.

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(2) Subject to the specificities of dematerialisation, the bidding documents uploaded online shall be identical in content with those stored on the physical medium by the Contracting Authority.

ARTICLE 8.- Bidders shall have access to bidding documents, pursuant to the terms and conditions governing the use of the dematerialisation platform.

ARTICLE 9.- The contractors shortlist file may be downloaded using the link indicated in the call for tenders.

SECTION II **SUBMISSION OF BIDS**

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ARTICLE 10.- Bids, submitted together with the requisite documentation, shall be assembled in electronic files grouped by administrative, technical and financial nature. The documents produced making up the bids shall bear the electronic signature.

ARTICLE 11.- Before being submitted online, tenderers' bids shall be automatically encrypted.

ARTICLE 12.- (1) Before submitting their bids, bidders shall pay document acquisition fees in accordance with the terms and conditions set out in the consultants shortlist file.

(2) Bids shall be submitted before the closing date and time indicated in the bidding documents.

(3) Bids submission shall be subject to an automatic dating process mentioning the date and local time of electronic submission.

(4) This shall further be attested by the dispatch of an electronic acknowledgement of receipt to bidders, pursuant to the provisions of Article 16 of this decree.

(5) Several bids may validly be transmitted by one and the same bidder before the closing date and time. In that case, only the last bid received shall be considered during bids assessment. The others shall be rejected without being opened.

ARTICLE 13.- (1) Electronic bids shall be backed up on a physical electronic medium. The backup copy shall be placed in a sealed envelope legibly marked "backup copy", and must arrive before the bids submission deadline.

(2) Notwithstanding the absence of a backup copy, an electronic bid received within the prescribed time frame remains valid. Such absence of backup copy shall be attributed to the defaulting bidder, in case of need.

ARTICLE 14.- (1) The backup copy shall be opened in one of the following cases:

- a) When a bid received within the prescribed period, could not be opened;
- b) When a malicious programme is detected in a bid submitted via the electronic channel; trace of such malicious programme shall be preserved;
- c) When a bid duly transmitted via the electronic channel is not received within the prescribed period, but the backup copy was deposited before the bids submission closing date.

(2) If the backup copy is opened, the one transmitted via the electronic channel shall no longer be opened.

ARTICLE 15.- In addition to being published on the dematerialisation platform, changes made during the public procurement process shall be communicated directly to competing bidders, through alert mechanisms.

CHAPTER III

RECEIPT, OPENING, REVIEW OF BIDS, AWARD, SIGNING AND NOTIFICATION OF CONTRACTS

SECTION I

RECEIPT AND OPENING OF BIDS

ARTICLE 16.- Bids submitted via the electronic channel shall be the subject of an acknowledgement of receipt message, sent by the administrator of the dematerialisation platform.

ARTICLE 17.- Before being transmitted to the Public Tenders Board for subsequent opening and review, bids submitted via the electronic channel shall be decrypted by the Contracting Authority. Decrypted bids shall be legible only to the competent tenders board.

ARTICLE 18.- The opening of bids transmitted via the electronic channel and those submitted in hard copy shall take place during the same session.

ARTICLE 19.- In order to open bids, access codes shall be issued to the Public Tenders Board, in accordance with the terms and conditions for the use of the dematerialisation platform.

ARTICLE 20.- In case of technical difficulties caused by the unavailability of the dematerialisation platform or any other malfunctioning preventing the opening of bids, the bids opening session shall be postponed to a date to be determined by the Public Tenders Board.

SECTION II

REVIEW OF BIDS

ARTICLE 21.- Bids shall be reviewed, where applicable, by a bids assessment sub-committee whose composition and operating conditions shall be governed by the regulations in force.

ARTICLE 22.- (1) The review of bids shall be done online.

(2) However, the bidding rules may provide for the possibility of reverting to hard copies for a physical review of bids. In that case, the Public Tenders Board shall forward to the bids assessment sub-committee a copy of each bid on a physical electronic medium for verification and review.

(3) In the case referred to in paragraph (2) above, the assessment report and other related documents shall be posted on the dematerialisation platform.

ARTICLE 23.- In assessing rematerialized bids, the requirements with respect to presentation and form indicated in the bidding documents shall not be considered.

SECTION III

AWARD, SIGNING AND NOTIFICATION OF CONTRACTS

ARTICLE 24.- (1) The award of public contracts via the electronic channel shall be governed by the same conditions as those provided for by the Public Contracts Code.

(2) The signing and notification of the contract award decision and publication of bidding results through the electronic channel shall also be allowed.

(3) However, only the date of publication of the award decision in the Public Contracts Journal or any other authorised publication shall be used as evidence in computing the deadline.

ARTICLE 25.- (1) Draft contracts may be underwritten, signed and notified via the electronic channel, except where their rematerialization is allowed by the bidding regulations.

(2) Instructions to contractors may also be underwritten, signed and notified following the same procedures as those mentioned in paragraph (1) above.

ARTICLE 26.- The dematerialisation platform shall allow Contracting Authorities the possibility to contact via electronic means the Minister in charge of Public Contracts for prior endorsement during the public contracts award phase.

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ARTICLE 27.- (1) Bidders may file their appeals through the electronic channel, in accordance with the terms and conditions provided for by the regulations in force.

(2) In case of persistent disagreement between the Public Tenders Board and the Contracting Authority, the request for arbitration may be submitted online to the Minister in charge of Public Contracts, in accordance with the regulations in force.

CHAPTER IV **ONLINE ARCHIVING OF PROCUREMENT DOCUMENTS**

ARTICLE 28.- The electronic archiving of documents shall be based on the principle of equivalence between the hard copy and soft copy.

ARTICLE 29.- (1) Electronic archive documents shall have the same probative value as physical archives.

(2) Archives generated by public procurement activity shall be and remain public archives. They shall be imprescriptible, non-transferable and unattachable.

ARTICLE 30.- The time frame for conserving documents saved on electronic media shall be the same as for documents in paper version.

ARTICLE 31.- (1) Documents available on the dematerialisation platform shall be archived by each Project Owner, Contracting Authority, Public Tenders Board and the public contracts regulation agency, independently of the central archiving system managed by the Minister in charge of Public Contracts.

(2) Access to the central archives of the platform shall be subject to a specific request addressed to the Minister in charge of Public Contracts.

CHAPTER V **MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS**

ARTICLE 32.- Procurement via the electronic channel shall be regulated by the same rules as those provided for by the Public Contracts Code.

ARTICLE 33.- Subject to their specificities, negotiated contracts may be awarded through the electronic channel, under conditions specified by this decree.

ARTICLE 34.- Dematerialised and physical procedures shall exist side by side until the effective establishment of a dematerialisation system likely to be used exclusively.

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ARTICLE 35. (1) The choice to use dematerialised public procurement procedures shall be left to the Project Owner.

(2) Before the start of each budgetary year, the Minister in charge of Public Contracts shall issue an Order setting the thresholds and types of contracts to be awarded via the electronic channel.

ARTICLE 36. Separate instruments of the Minister in charge of Public Contracts shall, as and when necessary, specify the conditions for implementing this decree.

ARTICLE 37. This decree shall be registered, published according to the procedure of urgency, and inserted in the Official Gazette in English and French.

Yaounde, 05 JAN 2018



Philemon YANG,
Prime Minister,
Head of Government

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