ANY REPLY OR SUBSEQUENT REFERENCE SHOULD BE ADDRESSED TO THE **FINANCIAL SECRETARY** AND THE FOLLOWING REFERENCE NUMBER QUOTED:-

Telephone No. 92-28600-16
Website: http://www.mof.gov.jm
Email: info@mof.gov.jm

MINISTRY OF FINANCE & PLANNING
30 NATIONAL HEROES CIRCLE
P.O. BOX 512
KINGSTON
JAMAICA

REF NO:

January 17, 2016

Circular No.: 2
Division: Public Expenditure Policy Co-ordination

Permanent Secretaries
Heads of Departments
Chief Executive Officers
Heads of Procuring Entities

Re: Advisory on Bid Securities - Tender Bonds

Permanent Secretaries, Heads of Departments, Chief Executive Officers and other Heads of Procuring Entities are hereby being advised of the following guidelines relating to the acceptance of Tender Bonds as forms of Bid Securities.

Pursuant to Section A7.6.1 - **Bid Security**, Volume 2: Procurement of Goods, Services and Works in the Revised Handbook of Public Sector Procurement Procedures (March 2014): *"Bid Security may be required for contract values above Fifteen Million Jamaica Dollars (JMD$15M) as a condition of participation in procurement proceedings."* The Procuring Entity must utilize a range of 0.05% to 2% of the comparative estimate to determine and request a **fixed sum** for the Bid Security.

A Bid Security is a requirement used to assure compensation to the Government of Jamaica for the time and money lost, if the successful bidder fails to honour the bid and the contractual obligations therein. The procuring entity, in its discharge of the procurement function is fully responsible for ensuring that bidders are made aware of a requirement to provide a bid security. The acceptable forms of bid security must be issued from a reputable financial institution and are limited to:

i. an irrevocable letter of credit or
ii. a Bank guarantee or
iii. a bid bond issued by a surety which is incorporated and domiciled in Jamaica or
iv. a bid-securing declaration or
v. a certified manager's cheque or
vi. an insurance certificate.

A Bid Bond is deemed valid and acceptable if it satisfies **all** of the following criteria:

i. It is denominated in Jamaica Dollars or the equivalent amount in a freely convertible currency;

ii. It is issued by a surety incorporated and domiciled in Jamaica or if the institution issuing a bond is located outside of Jamaica, it must have a correspondent financial institution located in Jamaica to make it enforceable.

iii. It conforms with the bid validity period prescribed in the bidding documents;

iv. It is issued in the name of the bidder. In the case of a joint venture, it must be issued in the name of all the partners in the joint venture;

v. It shall be worded in the same language as the Bid Security Form, provided in the Bid Documents;

vi. It is **duly executed by the bidder/contractor.** That is, it meets all the necessary legal requirements to render the document as a valid, enforceable legal instrument:

- It is signed, witnessed and dated by all the relevant parties, as set out in the Standard Bidding Documents;
- It is stamped by the Stamp Office of Jamaica, in keeping with the Stamp Duty Act, as proof of payment for the relevant Stamp Duty. The Stamp Duty Division within the Tax Administration of Jamaica (TAJ) issues a Vermillion seal on the bond and a validation barcode, which is placed on the reverse of the consideration (first) page.

With respect to the Stamp Duty requirement, it must be noted that the Commissioner General of the Tax Administration of Jamaica (TAJ) in the exercise of his powers under Section 80A of the Stamp Duty Act, may *"enter into an agreement with any person for the composition, in accordance with the provisions of this section, of the stamp duty chargeable under this Act on any item specified in this agreement"*. Under this agreement, an organization on composition will process in-house the document, putting the **Stamp Duty Medallion** on the documents of which the Tender Bond is included, as indication of such treatment. That is, *"The STAMP DUTY PAID" Medallion shall be printed at the top right hand corner of the first page of the Applicable Documents or as close thereto as the circumstances shall permit.* Therefore, in such a case the medallion becomes the evidence as opposed to the Vermillion seal placed on documents for the walk-in taxpayers.

Permanent Secretaries, Heads of Departments, Chief Executive Officers and Heads of Procuring Entities are advised to bring this circular to the attention of all affected personnel.

Devon Rowe, CD
Financial Secretary