

**A PRESENTATION AT THE TENDER COMMITTEE RETREAT ON SATURDAY AUGUST 13TH 2011**  
**FROM 11.00- 12.00 NOON**

**TECHNICAL EVALUATION PROCESS AND CHALLENGES**

**1.0 INTRODUCTION**

**Evaluation (Defined)**

This is the process by which the best evaluated tenderer is selected for award of a contract from among all the tenders received. It is done by the Evaluation Committee (otherwise known as the Technical Evaluation Committee) within a period of 30 (thirty) days after the opening of tenders. Where two separate committees (the Technical Evaluation Committee and the Financial Committee) are appointed, the technical evaluation shall be done within 30 days after the opening of Tenders and the Financial Evaluation shall be done within 5 days after the completion of the Technical Evaluation. The evaluation shall be done using the procedure and criteria set out in the tender documents. The committee is normally appointed by the chief executive of the procuring entity to carry out the Technical Evaluation.

**2.0 TECHNICAL EVALUATION OF TENDERS, PROCEDURE AND CHALLENGES**

This committee consists of a chairman and at least two other members, none of whom may be a member of the tender committee. All members are appointed by the accounting officer OR the Head of the procuring entity upon recommendation by the Procurement Unit. The committee members shall be knowledgeable in the operation, technical and financial aspects of the procurement. The committee prepares a report to the Tender Committee which includes an analysis of the tenders/quotations received, together with minutes of the Tender Opening, the results of the preliminary evaluation with reasons why any tenders were rejected, scores awarded by each evaluator for each tender, a summary of the relative strengths, and weaknesses of each tender, final ratings given to each tender and recommendation to award the tender to the lowest evaluated tenderer or, under the request for proposals procurement method, to the person who submitted the proposal with the highest total score.

**3.0 PROCUREMENT UNITS**

The procurement units in the procuring entities should be established with qualified and experienced professionals as prescribed under section 26 (9) of the Act. The functions of the procurement units include.

- (a) Maintaining and updating annually standing lists of Registered Tenderers.
- (b) Preparing, publishing and distributing procurement and disposal opportunities, including invitations to tender, prequalification documents and invitations for expressions of interest.
- (c) Co-ordinating and receiving of tender documents;
- (d) Maintaining procurement and disposal records;
- (e) Short listing prequalified tenderers for approval.
- (f) Proposing membership of the Evaluation Committee to the accounting officer.
- (g) Co-ordinating evaluation of tenders, quotations and proposals.
- (h) Preparing notices of awards, rejection letters, contract documents and variations of contracts.
- (i) Acting as a secretariat to the tender, procurement and Disposal Committees, and
- (j) Preparing consolidated and proposal plans.

#### 4.0 USER DEPARTMENTS AND THEIR RESPONSIBILITIES

User departments are responsible for:-

- (a) Initiating procurement and disposal (plans) requirements and forwarding them to the procuring unit.
- (b) Participating in the evaluation of tenders.
- (c) Reporting departures from the terms and conditions of the contract.
- (d) Giving details of any required variations to the procurement unit.
- (e) Maintaining records of contract management,
- (f) Endorsing goods, works and services received notes.
- (g) Preparing technical specifications
- (h) Assisting in preparation of procurement and disposal, plans and
- (i) Making clarifications on tenders, requests for quotations and any other matters as may be required.

#### 5.0 EVALUATION STAGES

Evaluation consists of the following stages

- (a) **A preliminary evaluation** is undertaken soon after opening tenders to ascertain that the tender has been submitted in the correct format, has been signed by the authorized person and that the correct number of copies, tender security, (if required), validity and any required samples have been provided. Any tender that does not meet the requirements is rejected.
- (b) **Technical evaluation** is then conducted on tenders that pass the preliminary evaluation for technical conformity. The evaluation committee sets its own terms of reference and methodology. The Technical

Evaluation precedes the financial evaluation. If the tender does not meet the technical requirements, it is not responsive and does not proceed to the financial evaluation.

- (c) **Financial evaluation** which considers prices read out at tender opening, corrections for arithmetic errors, currency, consistency in pricing, comparison of market price levels, front loading of items, discounts etc is undertaken. Tenders are then ranked according to their evaluated price and the successful tender is the lowest evaluated price.

However, some tenders, particularly those based on requests for proposals; a marking scheme may be used. The recommendations for contract award by the evaluation committee will be submitted to the tender committee for approval (Procurement Committee for Lower value offers).

## **6.0 COMPLIANCE WITH MANDATORY REQUIREMENTS**

These are set out in the tender documents and are mandatory to all the Bidders. Such requirements may be but not limited to the following:-

- Tender security
- Incorporation/Registration certificates
- Confidential Business Questionnaire duly completed and signed.
- Trade license
- VAT Certificate
- Current Tax Compliance Certificates
- PIN (Personal Identification Number)
- Audited accounts for at least the last three years or five years whichever is requested
- Names of at least three clients supplied with similar works or services
- Qualifications of key personnel
- Evidence of key equipment for use in the works

## **7.0 SUPPLIERS AVAILABILITY ASSESSMENT**

Confirmation of availability of the Bidders.

This includes but not limited to the following:

- Name
- Physical address
- Town/city location
- Street

- Landmarks
- Drawings/maps
- Telephone Number
- Business Contacts

## **8.0 CAPABILITY ASSESSMENT**

These include, but not limited to the following:

- Years in business
- Sample catalogues
- Conformity to technical specifications
- Relevance experience with other Public Organizations e.g. Universities, others etc.
- Maximum value of business indicated
- Delivery/Implementation schedule provided or construction period for a construction project.
- Rating by clients served in the last one year or so (Recommendation letters)
- Nature of Business

## **9.0 FINANCIAL CAPABILITY**

These include the financial soundness of the bidders. They include but not limited to the following:

- Profitability ratio
- Gearing ratio
- Liquidity ratio
- Working capital
- Turnover
- Average network
- General financial trend

## **10.0 TECHNICAL AND OPERATIONAL ASSESSMENT BY SITE VISITS**

The criteria used may include all of the following:-

- Confirmation of business name and physical address
- Confirmation of originals of attached documents
- Composition of staff i.e. Management, technical, supervisory and support staff.
- Names and qualification of key management and technical staff.
- Name of operations indicated and its relevance.
- Availability of necessary equipment.

- Size of business i.e. large, medium or small.
- Customer service centre
- After sales service backups
- Premises and yards i.e. Owned or leased.

All the four assessments are ranked and the total scores, are aggregated to a maximum of 100. **(From 7.0 - 10.0)**

#### **11.0 CONTENTS OF AN EVALUATION REPORT**

An evaluation report prepared under section 66(5) of the Procurement and Disposal Act shall comprise:

- (a) A summary of all tenders received and opened.
- (b) The results of the preliminary evaluation under regulation 47 of the Public Procurement and Disposal Regulations of 2006.
- (c) The results of the technical evaluation under regulation 49.
- (d) Reasons why any tenders were rejected
- (e) Details of any minor deviations accepted under section 64 of the Act and the way in which such deviations were quantified and taken into account in the evaluation and comparison of the tenders.
- (f) The evaluated price of each tender, showing any discounts, corrections or adjustments to the tender price and any conversion to a common currency.
- (g) The ranking of the tenders each according to its total evaluated price.
- (h) The results of any confirmation of qualification conducted under Regulation 52.
- (i) A recommendation to award the contract to the lowest evaluated bidder.
- (j) Such other recommendation as may be necessary
- (k) Appended signatures of the Evaluation Committee members. The report must be signed by all the members of the Evaluation Committee.

#### **12.0 CONFIRMATION OF QUALIFICATIONS**

A procuring entity may prior to the award of the tender confirm the qualifications of the tenderer who submitted the lowest evaluated responsive tender where so indicated in the tender documents, in order to determine whether the tenderer is qualified to be awarded the contract in accordance with the qualifications listed in section 31(1) of the Act. If the lowest evaluated tenderer is determined not to be qualified in accordance with the Act, that tender will be rejected and the next lowest evaluated responsive tenderer will be subjected to similar confirmation of qualifications.

### 13.0 AWARD DECISION AND COMMUNICATION

Any recommendation to award a contract by the Evaluation Committee must be submitted to the Tender Committee for approval (with the exception of low-value procurement). The tender committee awards the contract to the tenderer recommended by the Evaluation Committee unless there was an obvious error which requires correction before the award. **If the tender committee feels that the evaluation report is unsatisfactory, it should return the report for re-evaluation. The tender committee must not attempt to carry out an evaluation itself.**

**If an award is made by the tender committee, the procuring entity must then notify the successful and the unsuccessful tenderers of the result at the same time. It must then wait for a minimum of 14 days before signing a contract with the successful tenderer.**

### 14.0 CHALLENGES IN TECHNICAL EVALUATION

- (a) The lowest and evaluated bidder is not necessarily the best in terms of performance
- (b) There are delays at the procurement department until tender valid period expires
- (c) Tenders awarded after the validity period create problems at the implementation stage because tenderers are not requested to confirm their bids before award.
- (d) Sometimes there is mismatch of information/instructions to tenderers between bid documents and technical documents.
- (e) There is lack of yearly prequalified list of contractors on time. This should be done on time.
- (f) Unclear and ambiguous specifications. (Involving the developer/author of specifications into technical evaluation).
- (g) Mandatory requirements should be checked at tender opening to avoid mischief of missing documents.
- (h) There is no standard procurement set for construction works and supply of materials.
- (i) There are no specific instructions to contractors and suppliers of materials. All use one standard document which may not be relevant to that specific procurement. (e.g. special equipment like generators etc).
- (j) The evaluation criteria is not standard and this is left to the Technical Evaluation Committee members to devise their own criteria for evaluation.
- (k) Lack of facilitation for site visits.
- (l) Deadlines for technical reports are rarely met.
- (m) Lack of verification of documents submitted for technical evaluation - Bonds, Bank referees, Accounts and Bank Guarantee, Bid Securities (to avoid fraudulent misrepresentations).
- (n) Procurement Department lacks a Service Charter.
- (o) Maintenance works should be treated on the basis of trades, especially where the work is done by the Department of Construction & Maintenance to avoid exceeding the financial thresholds.
- (p) There is no pool of trained technical committee Evaluators for technical evaluations.

## References

- (1) Cartlidge Duncan; (2009): Reprinted 2011. Quantity Surveyors Pocket Book. Elsevier Publishing Ltd. Butterworth Heinemanns London. U.K. Great Britain.
- (2) Morledge Roy. Smith Adrian; Kashiwagi. D.T (2008) Building Procurement: Blackwell Publishing Ltd. Garsington Road, U.K. Great Britain.
- (3) Cartlidge Duncan; (2004): Procurement of Built Assets: Elsevier Publishing Ltd. Butterworth - Heinemann London U.K. Great Britain.
- (4) Bennet.F.Lawrence: (2003): The Management of Construction. A project life cycle approach. Butterworth - Heinemann. London U.K. Great Britain
- (5) Republic of Kenya: The Public Procurement and Disposal Act, 2005. Government Printers. Nairobi, Kenya.
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- (7) Public Procurement Oversight Authority (2009) User guide to the Public Procurement and Disposal Act, 2005 and Regulations of 2006. Government Printers. Nairobi, Kenya.

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