

Terms of Reference

For Registered Evaluators at the Central Procurement Board

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Terms of Reference for evaluator

Member of the Bid Evaluation Committee (BEC)

Background

The Central Procurement Board (CPB) as per provisions of the Public Procurement Act 2006 (PPA), as subsequently amended, is responsible for the approval of the award of major contracts by public bodies. After vetting bidding documents and notices submitted by public bodies and after the public opening of bids, in respect of major projects, the CPB shall *“select persons from a list of qualified evaluators maintained by it to act as members of a bid evaluation committee and oversee the examination and evaluation of bids”*.

This document covers extensively what is expected from evaluators selected to conduct a Bid Evaluation exercise for projects falling under the purview of the CPB.

The BEC is setup with a minimum of three selected members out of which one member is designated as Team Leader who will be the liaison between the BEC and the CPB. At times, technical expertise may be provided upon special request of the BEC.

A secretary designated by the public body is responsible to take minutes of meetings and keep record of all matters considered by the committee.

Objective(s)

A bid evaluation is meant to examine all bids received in respect of a public procurement exercise to determine *inter alia* the following:

- completeness of bids
- eligibility of bidders and their qualification
- Compliance with qualification and evaluation criteria set out in the bidding document
- Arithmetical accuracy of bid prices
- lowest evaluated substantially responsive bidder

The findings of the BEC are submitted to the CPB in a comprehensively documented report referred to as the Bid Evaluation Report (BER).

The CPB also expects from the BEC, recommendations, if any, on eventual amendments or additions in order to improve future public procurement exercises. Those recommendations are submitted under section 12 of the BER template, issued by the Procurement Policy Office (PPO).

1. Scope

In conducting procurement exercises, the BEC shall determine the lowest evaluated substantially responsive bidder and in other situations, such as a framework agreement, a list of responsive bidders.

However there is also the possibility that the exercise fails to determine any responsive bidder(s). While the BEC must strictly comply with specific qualification and evaluation criteria generally or specifically set for a bidding exercise, a BEC cannot bring in extraneous information to cure any shortcoming in the qualification and evaluation criteria.

In situations where the BEC lacks specific technical know-how to determine the responsiveness of a bid, a duly substantiated request for assistance must be made to the Board through the Chief Executive.

2. Methodology

An evaluation exercise shall be conducted in compliance with the Evaluation Guide issued by the PPO and the following additional documents may be used as reference:

- Public Procurement Act 2006
- Public Procurement Regulations
- Directives issued by the PPO
- Circulars issued by the PPO
- Findings/decisions of the IRP (especially for re-evaluation)
- Advice received from SLO

Bid Evaluation for Works and Goods shall generally be carried out as follows:

STAGE 1: COLLECTION OF INFORMATION

- Basic Data for Bid Document/ Addendum/ Clarification/ Detailed Estimated Cost
- Record of Bid Opening
- Preparation of Table of Bidders and bid prices

STAGE 2: PRELIMINARY EXAMINATION

- Determining Completeness of bid
- Determination of Substantial Responsiveness
- Preparation of Table of Substantial Responsiveness of Bids

STAGE 3: DETAILED EVALUATION OF BIDS

- Corrections and Unconditional Discounts
- Determination of Number of Bids for Detailed Evaluation
- Detailed Evaluation Process
- Financial Adjustments of Bid Price for Priced deviation (Commercial Aspects)
- Financial Adjustment of Bid Prices (Technical Aspects)
- Detailed Evaluation of Bids for Civil Works Contract

STAGE 4: DETERMINATION OF THE LOWEST EVALUATED SUBSTANTIALLY RESPONSIVE BID

- *Application of Margin of Preference (if any)*
- Determination of award of Contract
- Determination of contract amount

Bid Evaluation for Consultancy Services shall generally be carried out as follows: Re. eval Guide Consultancy

- Opening of Technical Proposals
- Evaluation of Technical Proposals based upon detailed evaluation criteria as approved by CPB
- Evaluation Report of Technical Proposals
- Public Opening of Financial Proposals for technically responsive proposals
- Evaluation of Financial Proposals overall
- Overall Evaluation Report (Technical + Financial)

3. Time frame and reporting

The evaluation exercise shall be carried out, as far as possible, within the agreed time-frame set by the Board and communicated to the BEC during the “Pre-Evaluation Meeting”. Recognizing that evaluators may not be available on a full-time basis, it is expected that the number of hours initially set for completing the evaluation exercise be effected within a maximum number of 15 working days.

BEC members are required to record time-in and time-out in an appropriate register and in the attendance sheet.

After a bid evaluation the BEC shall submit its BER to the CPB for consideration and decision making.

4. Guiding principles and values

The integrity of an evaluation exercise largely depends on the ethical conduct of key participants including technical experts and the secretary of the BEC, upholding the following guiding principles and values.

a. Independence

- Evaluators shall exercise independent judgment, free from bias and shall not be unduly influenced by the views or statements of any party. Any situation that could endanger the integrity of the evaluation must be reported to the Chief Executive of the CPB.

b. Impartiality

- Evaluators shall:
 - Operate in an impartial and unbiased manner at all stages of the evaluation.
 - Collect diverse perspectives on the subject under evaluation.
 - Guard against distortion in their reporting caused by their personal views and feelings

c. Credibility

Evaluation shall be credible and based on reliable data and observations. Evaluation reports shall show evidence of consistency and dependability in data, findings, judgements and lessons learned; appropriately reflecting the quality of the methodology, procedures and analysis used to collect and interpret data. Evaluators shall endeavor to ensure that each evaluation is accurate, relevant, timely and provides a clear, concise and balanced presentation of the evidence, findings, issues, conclusions and recommendations.

d. Disclosure of conflicts of interest

- Conflicts of interest shall be avoided so that the credibility of the evaluation process and result shall not be undermined. Conflicts of interest may arise at the level of members or consultants. Same should be disclosed and dealt with openly and honestly.
- Evaluators are required to disclose in writing any past experience, of themselves, their immediate family, close relatives or associates, which may give rise to a potential conflict of interest.
- Under exceptional circumstances, it may be necessary to engage an evaluator who has a past connection with the object of the evaluation, for example where the object under evaluation is highly technical and only a small pool of competent experts is available. In such a case, measures to safeguard the integrity of the evaluation shall be adopted and such measures shall be disclosed in the evaluation report. For instance, such an evaluator shall not be appointed as Team Leader.
- Evaluators are requested to consult the “Code of conduct for public officials involved in public procurement” issued by ICAC.

e. Honesty and Integrity

Successful evaluation depends on the honesty and integrity of the entire evaluation process. Evaluators shall:

- Accurately represent their level of skills and knowledge and work only within the limits of their professional training and abilities in evaluation, declining assignments for which they do not have the skills and experience to successfully complete.
- Accurately present their procedures, data and findings, including ensuring that the evaluation findings are not biased.
- Decline evaluation assignments where the CPB is not giving due consideration to their expressed concerns that the evaluation methodology or procedures are likely to produce a misleading result. (If declining the assignment is not feasible, the evaluator shall record his/her dissent either in the evaluation report or otherwise)

f. Accountability

Evaluators are accountable for the completion of the evaluation as agreed with the CPB. Specifically, evaluators shall:

- Complete the evaluation deliverables within the timeframe agreed
- Exercise prudence and probity indecision-making
- Give the CPB early notice of any change to the evaluation plan or any risks to the successful completion of the evaluation and record the reasons for any changes made to the evaluation plan.

g. Confidentiality

- Evaluation shall be carried out within the premises of the CPB
- Evaluators shall strictly comply with confidentiality requirements.
- All data and information provided by the CPB during the evaluation exercise shall be treated as confidential.
- No information concerning the evaluation shall be disclosed to any third party including the public body concerned
- Evaluators are not allowed to copy/extract data or information in any form whatsoever out of the premises of the CPB.
- The use of removable storage devices, mobile phones or any other device that allows extraction or copying of information(including taking pictures) is strictly prohibited.

h. Accuracy, Completeness and Reliability

Evaluators have an obligation to ensure that evaluation reports and presentations are accurate, complete and reliable. In the evaluation process and in the production of evaluation outputs, evaluators shall:

- Carry out thorough examination, systematically employing appropriate methods and techniques to the highest technical standards, validating information using multiple measures and sources to guard against bias, and ensuring errors are corrected.
- Describe the purposes and content of object of the evaluation clearly and accurately.
- Present openly the values, assumptions, theories, methods, results, and analyses that significantly affect the evaluation.
- Describe the methodology, procedures and information sources of the evaluation adequately so they can be identified and assessed
- Make a complete and fair assessment of the object of the evaluation.
- Explicitly justify judgements, findings and conclusions and show their underlying rationale so that stakeholders can assess them.
- Ensure all recommendations are based on the evaluation findings only, not on their or other parties' biases.

i. Transparency

Evaluation documents shall be easily readable and specify their information sources and approaches. Evaluation reports shall make the link between evidence, findings, conclusions and recommendations transparent, persuasive and proportionate to the body of evidence collected.

5. Deliverables

A BER must be submitted in the format prescribed by the Procurement Policy Office as per the “Evaluation Guide”. The BE report should be duly signed by all members and submitted in both hard copy and soft copy to the Chief Executive of the CPB.

A BER must contain relevant details on rejected bids and the reasons/rationale thereof in a way to provide the Board with enough material to reply to any challenge by eventual aggrieved bidders.

The CPB may call in a BEC for a debrief session after the submission of its report in order to clarify the methods, findings and recommendations whenever necessary.

The Board may, after the submission of a BER report, require the BEC to conduct a fresh or further evaluation on specified grounds. The BEC shall within five (5) working days, comply with the requirement of the Board.

Furthermore, evaluators are required to provide materials for reply to challenge as well as attending hearings at the Independent Review Panel (IRP) and Court as and when required

6. Evaluation of evaluators

Once the evaluation exercise is completed, the members of the BEC will be evaluated on either the basis of self-evaluation questionnaires, face-to-face meeting or a feedback system or a combination of all three. The information gathered will help the CPB in future selection of evaluators for specific projects and designing appropriate training programs.

7. Payment

BEC members shall be paid according to the rates and procedures prevailing at the CPB. No extra payments will be considered for further or fresh evaluation on specified grounds requested by the Board, after the submission of a first evaluation report. 80 % of the fees are payable after approval of award and the balance within a period of 3 months.