

(3F) Pre-Contract Award Procedures

Presentation for LRN Training

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BID REVIEW AND CLARIFICATION: PROCEDURES AND SCOPE

Bid Review

- ❖ Bids are thoroughly checked during the bid evaluation
- ❖ The Employer shall award the contract to the Bidder:
 - ❑ With the lowest evaluated bid,
 - ❑ Who is substantially responsive to the Bidding Document, and
 - ❑ Is qualified to perform the Contract.
- ❖ If the bid selected is in order the next step is the Letter of Intent, if not a clarification meeting may be held

Negotiation

- ❖ Can be negotiation of price and/or terms and conditions
- ❖ Only allowed for:
 - ❑ Consultancy Services
 - ❑ Direct Procurement (PPR 86.2)
 - ❑ User Committee engagements

Clarification

Clarification Letter:

- ❖ This procedure is only used in very special cases where there are serious doubts that cannot be satisfied by correspondence alone
- ❖ Issued to substantially lowest bidder to invite them to clarification meeting
- ❖ Letter includes
 - Date, time, and location of clarification meeting
 - Likely agendas to be discussed in the meeting

Clarification Contd.

Clarification Meeting:

- ❖ Clarification meeting held between Evaluation team and Bidder at the date, time and place as described in the clarification letter
- ❖ PPR 65 (2), Evaluation committee shall carry out an examination only if:
 - ❑ They are concerned that the contractor cannot carry out the work satisfactorily
 - ❑ Quoted low rate demonstrates misunderstanding of technical specification of work
 - ❑ High front loading for preliminary stage work
 - ❑ For low price (shall ask clarification)

Clarification Contd.

- ❖ Some common agendas for the meeting could be:
 - ❑ Background/purpose
 - ❑ Bid amount
 - ❑ Advance money
 - ❑ Mobilisation to the site (for construction work)
 - ❑ Schedule or works/delivery of goods
 - ❑ Transportation means (for goods supply)
 - ❑ Intermediate Milestones
 - ❑ Quality management
 - ❑ Technical specifications etc.
 - ❑ Pre-contract samples (for good supply) for low rate items
 - ❑ AOB
- ❖ Note if there is any 'negotiation' (clarification of terms included) minutes of this meeting must be kept (Rule 149(2)k)

Pre-Award Visits

- ❖ Only in special/extreme cases
- ❖ Visit of warehouse, yard, factory, workshop, company, Offices, observation of equipment, etc.
- ❖ Used to clarify and confirm the bidder can perform the Contract, e.g. where a low works bid comes in and PE is trying to form an opinion on whether the bidder's evidence of performance is valid

PRE-AWARD FORMALITIES



Letter of Intent

- ❖ RAP Std. Bid Doc >6M, ITB 37.1
- ❖ PPA Section 27 is the leading authority
- ❖ The Employer shall notify the Bidder, through the Lol:
 - ❑ Within 7 days of selection of Bid
 - ❑ That it intends to accept the bid
- ❖ Employer must also inform all other bidders of the name, address, and price of selected Bidder
- ❖ The letter must mention evaluated bid price
- ❖ Letter of Intent shall address the completion of bid evaluation process

Cooling Period

- ❖ The 7 days following the issuing of the Letter of Intent (LoI) is the cooling period
- ❖ Unsuccessful bidders can submit complaints (Application) during this period

Complaints and Review

- ❖ PPMO clause 40
- ❖ Complaints must be lodged within 7 days of the Lol being issued
- ❖ The Public Entity has 5 days to respond
- ❖ If the Bidder is not satisfied with the response, or the PE does not respond, they can apply to the GoN Review Committee
- ❖ PE must provide Review Committee with details of the procurement proceedings
- ❖ Review Committee makes a decision within one month of the Bidder lodging their complaint

Notification of Award

- ❖ Letter of Acceptance, RAP Std. Bid Doc >6M, ITB 37.2, PPMO document
- ❖ If no Bidders submit complaints within 7 days of notice (LoI), the Employer will:
 - ❑ Accept the bid
 - ❑ Issue LoA prior to expiration of Bid validity period to furnish the performance security and sign the contract within 15 days. LoA must state the Contract price
 - ❑ Issue a public notice on result of Award
- ❖ Note: PPR 84 (10), The Public Entity shall:
 - ❑ Accept the sealed quotation within 15 days from its opening
 - ❑ Issue notice thereof to all those who have submitted it

Public Notice

- ❖ Issued on result of Award
- ❖ Employer shall post a notice detailing result of award:
 - ❑ On its website
 - ❑ On DoLIDAR's website (now on PPMO website)
 - ❑ (Present practice: publication in newspaper)
- ❖ The Public Entity shall fix a public notice on the result of award (district procurement)
 - ❑ On its notice board
 - ❑ On the notice board of DDC
 - ❑ District Administration Office
 - ❑ District Treasury
 - ❑ Controller Office

Public Notice Contd.

- ❖ The notice shall include:
 - ❑ Name of each Bidder who submitted a Bid
 - ❑ Bid prices as read out at Bid Opening
 - ❑ Name and evaluated prices of each bid
 - ❑ Name of bidders whose bids were rejected and the reasons for their rejection
 - ❑ Name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the Contract Awarded

Performance Security

- ❖ Within 15 days, or number of days specified in SCC, of the receipt of LoA from the Employer, the successful Bidder shall furnish the performance security (Ref Doc: RAP Std. Bid Doc >6M, ITB 38 and PPR 110)
 - ❑ From a Commercial Bank or a Bank in Nepal acceptable to Employer
 - ❑ Using Sample Form as in Contract Form or other Form acceptable to Employer
 - ❑ 5% of the contract amount
 - ❑ The validity period (unless otherwise provided in contract doc) shall exceed more than one month
 - ❑ To warranty period (goods)
 - ❑ DLP (construction works)

Performance Security Contd.

- ❖ The performance security shall be payable
 - ❑ As compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- ❖ Failure to submit performance security or sign the Contract Agreement will result in:
 - ❑ Cancellation of Contract
 - ❑ Forfeiture of bid security

Discharge Bid Security

- ❖ Upon the successful Bidder furnishing performance security, the Public Entity will promptly notify each unsuccessful Bidder and will discharge its bid security

Discharge Bid Security Contd.

A bidder will lose their bid security:

- ❖ If they have withdrawn their Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- ❖ If they do not accept the correction of errors in accordance with the ITB; or
- ❖ Having been notified of the acceptance of its Bid by the Employer during the period of bid validity, the Bidder:
 - ❑ Fails or refuses to execute the Contract Agreement, or
 - ❑ Fails or refuses to furnish the performance security, in accordance with the ITB

SIGNING OF CONTRACTS



Signing of Contracts

- ❖ Upon the submission of performance security the Employer and the Successful Bidder shall sign the contract within 15 days, or the period mentioned in the bid documents
- ❖ Two original copies of the contract documents must be prepared
- ❖ The authorised representative of both parties (Employer and the Contractor) sign the contract with a minimum of one witness from each party

Signing of Contracts Contd.

- ❖ After signing and stamping the contract documents, each party receives one original copy
- ❖ Note: For Central procurement or any direct procurement, the Contractor / the Supplier has to sign RAP3 code of Conduct and Ethics

END



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