**FINANCIAL AND BUSINESS MANAGEMENT TRAINING FOR ROAD CONTRACTORS**

**MODULE SIX SESSION SEVEN**

**EVALUATION OF BIDS AND CONTRACT AWARD**

**1.0 INTRODUCTION**

By the end of the module, participants will be able to:

## Appreciate the significance of bid evaluation process in the procurement of road works and services

## Discuss with the trainees the various bid evaluation methods and explain their suitability in selecting providers

1. Discuss the stages of bid evaluation and explain the significance of each stage in the overall evaluation process
2. List the criteria for scoring bids during bid evaluation
3. Discuss how trainees/contractors can comply with bid evaluation criteria and

**1.1 Understanding bid evaluation**

Bid evaluation is the process by which all the bids received are analyzed using a set of criteria to come up with a best bid for award of contract.

Bid Evaluation is the process by which the best evaluated bid is selected for award of contract from among all the bids received.

Bid evaluation relates to:

* Examination
* Comparison
* Recommendation of Best Evaluated Bidder for award of a contract.

It is important for contractors to understand this process so as to improve the quality of their bids.

**1.2 Purpose of evaluation**

The main purpose of bid evaluation is to determine the best evaluated bid (BEB) among the bids submitted before the bid closing time on the date specified in the Bidding Documents. The best evaluated bid may or may not necessarily be the lowest priced bid depending on the evaluation method. It should be the one that best meets the PDEs criteria.

In order to determine the best evaluated bid, a systematic evaluation procedure designed to cover all aspects of the evaluation process should be followed. A bid evaluated committee is always selected to evaluate bids. The bidder should study the criteria carefully and respond to it to be the best evaluated.

**1.3 Evaluation Committee**

An evaluation committee is an adhoc committee set up as and when necessary and whose membership changes with the type of procurement being considered. It is composed by the PDU and approved by the Contracts Committee.

Members of the evaluation committee are drawn from the User depts, PDU and sometimes outside the PDE when the available in-house skills need to be enhanced. They are recommended for appointment by the PDU and approved by the Contracts Committee. A Member of a contract committee can not in any way be part of the evaluation committee as this segregation of roles is important as a measure of checks and balances. Evaluation committee members sign a code of Ethical Conduct in Business and also make a declaration that they have no conflict of interest.

* 1. **Qualifications of the members of the evaluation committee**

Foremost, members of the evaluation committee normally possess the skills and experience in public procurement processes particularly the ability to understand the criteria to be used and are able to follow the procedures of evaluation. They should be familiar and knowledgeable of the work processes in a user department in order to easily conceptualize and interpret the needs of the department. Such knowledge should include having technical skills relevant to the subject of the procurement. Another essential element is possession of financial management skills to evaluate commercial and financial implications of each bid as well as legal exposure particularly contracting. All these attributes need not be in each member but the selection of the members should be such that when combined they cover the needed variety of skills and knowledge.

Lastly members should be persons with sound judgment, firmness and impeachable integrity such that they conduct the evaluation without bias and also be able to withstand the temptation from selfish and corrupt groups.

**1.5 Roles of the evaluation committee**

The key role of the evaluation committee is to compare bids and select the best in accordance with the evaluation criteria that was communicated to the bidders. In doing so they should understand and interpret in an appropriate context the scoring system for each criteria. They should also evaluate and score each criteria to reflect true strength of the bidder. It is the role of the committee to evaluate the bids using the criteria stated in the bid documents and not to divert from it as this may cause disputes and biased evaluation. At the end of the evaluation exercise, the EC prepares a detailed report of the bidding process and recommends to the PDU and the Contracts Committee the best evaluated bid to receive the award.

*Note that the contracts committee has a role of reviewing the evaluation report for approval, amendment or rejection. Hence the evaluation process cannot be complete until the contracts committee have done this step.*

* 1. **Obligations of the evaluation committee are such that they should:**

The evaluation committee members should have a clear understanding of the rating and scoring system, ensure that they have no conflict of interest and must maintain confidentiality throughout the process so that the process is not only fair but is seen to be fair.

* 1. **Evaluation Committee Procedure**

The evaluation committee members ordinarily select a chairperson amongst themselves who guides the members in the evaluation process and ensure a smooth, speedy and fair evaluation. Each member signs a Code of Ethical Conduct in Business as well as a declaration of no conflict of interest. Minutes of the proceedings of the committee are maintained and it is necessary that they are signed by all members present. Similarly an evaluation report is also signed by all members of the evaluation committee. Where there is a disagreement it should be documented and also forwarded to the Contracts Committee as part of the report for the committee to resolve..

1. **Negotiation Team**

The evaluation committee may in their report recommend award of procurement subject to negotiations. Negotiations are discussions aimed at resolving differences between the best evaluated bid and the procuring and disposing entity's requirements or agreeing mobilization, implementation or any other arrangements. Negotiations should be carried out by the negotiation team after the determination of the best evaluated bid, but before an award decision is made.

Membership of a negotiation team shall;-

* Depend on value and complexity with a minimum of three
* May include members of original evaluation committee
* Be at an appropriate level of seniority and experience and
* Include external persons to the PDE if necessary such as where required skill is not available or where there is a conflict of interest.

Negotiations may relate to:

* a minor alteration to the technical details of the statement of requirements;
* reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the solicitation documents;
* a minor amendment to the special conditions of contract;
* finalizing the payment arrangements;
* mobilization arrangements;
* agreeing final delivery or works schedules to accommodate any changes required by the procuring and disposing entity;
* the proposed methodology or staffing;
* inputs required from the procuring and disposing entity; or
* clarifying details that were not apparent or could not be finalized at the time of bidding.

1. **Procurement and Disposal Unit (PDU)**

A procurement and disposal unit has the responsibilities during evaluation to nominate members of evaluation committee for approval by contracts committee to manage the evaluation process and to receive and forward the evaluation report to the contracts committee. Once the contracts committee makes their decision, it is the responsibility of the PDU to ensure the compliance of the procurement to all regulatory and administrative procedures to the point of implementation.

1. **Contracts Committee**

The accounting officers appoint members of the contracts committees inwriting, by letter of appointment with prior approval of the Secretary to the Treasury. The roles of Contracts Committee during evaluation include;

* Approve evaluation committee members
* Approve and or reject evaluation report
* Approve negotiations teams
* Approve or reject negations report

**1.8 Guiding Principles for Effective Evaluation**

* + Confidentiality
  + Integrity
  + Economy and Efficiency
  + Non- discrimination & Fairness
  + Transparency
  + Accountability
  + Competition (open competitive bidding)
  + Ethical Behaviour
  + Public Accessibility
  + Best Evaluated Bids
  + Publication of opportunities and information

**2.0 BID EVALUATION METHODOLOGIES**

This is criteria based on facts and measurable indicators that is based on to select the best bidder.

* 1. **Quality and Cost Based Selection**

The quality and cost selection method considers both the technical quality and cost of each bid with relative weighing of technical and cost element decided in advance. The bid document indicates the criteria for technical evaluation and the weight of the technical and financial bids. The method is appropriate where quality is considered important but also there is a cost constraint.

Usually, there is a minimum technical qualifying mark, below which a bid shall be rejected. The evaluation process has two stages. Stage one is the determination of the technical scores. Factors evaluated could include items such as experience, staff and their qualifications, equipment available for the job etc. Points are awarded to the technical quality of each bid using predetermined criteria. Bids which do not reach a predetermined minimum score are rejected as non responsive.

Stage two involves the opening of all technically accepted bids. The financial bids are awarded a financial score based on the lowest best bid. The lowest bid is say scored 100% and the other financial bids are prorated.

The best evaluated bid (BEB) is the one with the highest combined technical and financial score using weights predetermined in the bid document. For example, a 60% weight for technical scores and 40% for the financials. Example of technical and financial scores is given below:

|  |  |  |  |
| --- | --- | --- | --- |
| **Bidder** | **Tech score** | **Financial Bid (shs)** | **Financial score** |
| A | 86% | 110m | 91% |
| B | 90% | 135m | 74% |
| C | 78% | 100m | 100% |
| D | 72% | 120m | Not opened |

The qualifying technical score was set at 75% therefore bid D financial bid were not opened as it did not meet the minimum acceptable technical score. The evaluation based on the quality and cost selection method appears as below where the weight of technical is 70% and financial 30%.

|  |  |  |  |
| --- | --- | --- | --- |
| **Bidder** | **Tech score** | **Fin. score** | **Weighted score** |
| A | 86x0.70 | 91x0.30 | 87.5% |
| B | 90x0.70 | 74x0.30 | 85.2% |
| C | 78x0.70 | 100x0.30 | 84.6% |

The best evaluated bid therefore is A with an average score of 87.5%.

* 1. **Quality Based Selection**

The quality based selection focuses on quality only, using merit points to determine the best quality technical bid. The best technical bid is the best evaluated bid, regardless of price. In such circumstances the financial bids of the other bidder are not opened; only that of the best quality bidder is considered. In the example above, bid B with a technical score of 90% is the best evaluated bid. Financial bids of A, C and D would remain unopened. Only if B fails to conclude a contract would the PDE open the financial bid of A the next highest technical bidder. This method should be applicable where quality of work is of utmost importance and there is no restriction on the funds available.

* 1. **Fixed Budget**

This method is used to obtain the highest quality bid within the PDE’s budget. The constraint for funds is considered more critical than the quality. The bidders are usually informed of the available budget in the bid documents while merit points are used to determine the quality of the technical bids. Below would be the results of such a bid:

|  |  |  |  |
| --- | --- | --- | --- |
| Bid outcomes: | Project Budget | 112m |  |
| Bidder | Tech score | Fin. Bid (shs.) | Financial Rank |
| A | 86% | 110m | 1 |
| B | 90% | 135m | Do not qualify |
| C | 78% | 100m | 2 |

Bid A is considered the best evaluated because within the budgeted price of Financial Rank shs 112m it had the highest quality bid. Bid B is disqualified as it exceeds the budgeted amount.

* 1. **Least Cost**

After the technical evaluation, under the Least Cost Selection, all financial bids are opened and the least cost bid becomes the best evaluated one. Merit points are used to determine which bids meet the minimum technical standards required.

An example of this using the available data below shows that bid C would emerge as the best evaluated bid.

|  |  |  |  |
| --- | --- | --- | --- |
| **Bidder** | **Tech score** | **Fin. Bid (shs)** | **Financial Rank** |
| **A** | **86%** | **110m** | **2** |
| **B** | **90%** | **135m** | **3** |
| **C** | **78%** | **100m** | **1** |
| **D** | **72%** | **disqualified** |  |

* 1. **Technical Compliance**

Under this approach, the Bids are compared to standard of requirements on a pass or fail basis to determine whether they meet the technical standards required. Once this is done the best evaluated bid is the lowest priced which is substantially responsive to the commercial and technical requirements of the PDE.

**While selecting the evaluation method, a PDE should consider the length of the procurement cycle, the cost of procurement, the nned for quality and the budget restrictions.**

* 1. **Stages of Bid Evaluation**

**There are six main stages in the evaluation of bids namely:**

* **Preliminary review and administrative compliance testing**
* **Technical evaluation**
* **Financial evaluation**
* **Determination of BEB**
* **Evaluation report**
* **Decision of Contracts Committee** 
  + 1. **Preliminary examination**

This is a brief assessment of whether each bidder is eligible as per the requirements of the bid document. It also determines the administrative compliance of the bid to the basic instructions and requirements of the bid document. Preliminary examination is conducted on a pass/fail basis. Only those firms that meet all the preliminary requirements are considered for the next stage.

The purpose of preliminary examination is to determine eligibility and administrative compliance of bidders.

These documents are all useful to give confidence to the PDE. A certificate of registration is aimed at ensuring that PDEs deal with companies with legal capacity to enter contracts. Trading license confirms authority to transact in a given trade while VAT registration certificate helps Government to trace companies to remit VAT to URA. Income tax clearance certificate aims at eliminating non-compliant tax payers to transact business with Government and NSSF payment to encourage companies intending to supply government to contribute social security for their employees. Powers of attorney is for the purpose of identification of the person to legally represent and commit the bidder. Audited financials statements will through light on the volume of previous business, net worth of the business and its solvency. A bidder should ensure that genuine documents are provided to void technical disqualification.

* + 1. **Administrative Compliance**

This refers to conformity to the basic instructions and requirements. These include:

* Submission of the bid in a required format
* Delivery period within required time
* Correct bid validity and bid security
* Signature and authorisation of bids
* Any additional documents included
* Correct number of copies
  + 1. **Technical evaluation**

Technical evaluation should only be carried out on bids that passed preliminary evaluation. It involves first assessing that the bid substantially meets the commercial and technical requirements and secondary to score the technical performance of the bid.

1. **Determination of Substantial Responsiveness**

The scrutiny of bids for substantial responsiveness to the provisions of the Bidding Documents is one of the most important aspects of the evaluation of bids.

A bid is considered substantially responsive if it does not contain any material deviation, reservation, or omission from the Bidding Documents or from conditions which cannot be determined reasonably in terms of monetary value for financial adjustment. A material deviation, reservation, or omission is one that:

* if accepted, would in any substantial way (i) affect the scope, quality or performance of the works specified in the contract; or (ii) be inconsistent with the Bidding Documents, or limit the employers rights or the bidder’s obligations under the proposed contract;
* if rectified, would fairly affect the competitive position of other bidders presenting substantially responsive bids.

The purpose of this exercise is to reject bids which are not substantially responsive to major commercial and technical requirements.

1. **Substantial Responsiveness to Commercial Terms and Conditions**

All bids must be checked for substantial responsiveness to the commercial terms and conditions of the Bidding Documents. Examples of nonconformity to commercial terms and conditions, which are justifiable grounds for rejection of a bid are:

* Failure to sign the Bid Form and Price Schedules by the authorized person or persons;
* Failure to satisfy eligibility requirements, (e.g., bidder or contractor are not from an eligible source country (usually defined by the funders);
* Inability to meet the critical delivery schedule or work schedule clearly specified in the Bidding Documents, where such schedule is a crucial condition with which bidders must comply;
* Failure to comply with minimum cash flow (Financial Resources) personnel, and equipment requirements as specified in the Bidding Documents;
* Failure to submit major supporting documents required by the Bidding Documents to determine substantial responsiveness of a bid e.g. CVs of key staffs.

1. **Substantial Responsiveness to Technical Requirements**

All bids must be checked for substantial responsiveness to the technical requirements of the Bidding Documents. Examples of nonconformity to technical requirements, which are justifiable grounds for rejection of a bid are:

* Failure to bid for the required scope of work (e.g., for the entire civil works or a complete package or a complete schedule) as instructed in the Bidding Documents and where failure to do so has been indicated as unacceptable;
* Failure to quote for a major item in the package;
* Failure to meet major technical requirements e.g., offering completely different types of equipment or materials from the types specified, plant capacity well below the minimum specified, equipment not able to perform the basic functions for which it is intended, etc.
* Presentation of unrealistic and inadequate implementation plans and schedules regarding performance, technical or service factors

The test for substantial responsiveness to commercial and technical requirements is then followed by scoring the bids using the criteria stated in the bid documents.

***Below is an example of technical criteria rating system for works:***

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Maximum Score (%)** | **Actual Score (%)** |
| **Specific experience of the firm** | 10 |  |
| **Tools and equipment** | 30 |  |
| **Qualifications and competence of key personnel** | 40 |  |
| **Transfer of knowledge** | 10 |  |
| **Local participation** | 10 |  |
| **Total Score** | **100 %** |  |

Each member of the evaluation committee scores each bid and an average score computed for each bid. A pass score set and communicated in the bid documents must be attained in order for the bid to proceed to the next level.

* 1. **Price evaluation/comparison**

Price evaluation/comparisonis conducted to examine and compare financial bids to determine the best evaluated bidder. Financial comparison is only conducted for bids that have been found to be;

* Eligible and administratively compliant and
* Substantially, commercially and technically responsive and
* Have obtained the minimum technical scores.

During price evaluation, the bid is checked to ensure that they are accurate and compared in the same currency and same taxation basis. Hence arithmetic errors are corrected and all figures are converted to a common currency and taxation base (with or without taxation).

The best evaluated bid is one with the highest score, from among those which are eligible, compliant and substantially responsive based on the selection method used.

**2.8 Basis for selection of Evaluation Method**

The choice of evaluation methodology for suppliers of goods, supplies and works is based on simple principles:

* The ***total lifetime*** of each procurement.
* The ***quality*** of the procurement.
* The **cost** of the procurement i.e. the amount of money to be spent on the procurement

### POST QUALIFICATION

A post qualification review is done to determine whether the bidder whose bid emerged as the Best Evaluated has the capability and resources to effectively carry out the contract. It is a verification exercise on the capability of the best evaluated bidder.

**3.1 Issues to consider in post-qualification**

* Confirmation of experience of work
* Past performance
* Existence of staff and verification of qualifications and experience
* Re assessment of financial situation
* Facilities available locally/internationally
* Overall capacity to undertake the work
* Litigation record
* Any relevant data

The essence of this review is to have further confidence that the bidder is real and capable of doing the assignment before a contract is awarded.

1. **EVALUATION REPORTS**

**4.1 Structure of an Evaluation Report**

The Evaluation Report is prepared by the evaluation committee to the PDU after every procurement evaluation. It has a standard format for works, supplies or services and includes:

* Introduction
* Details of Invitation
* Addenda to Solicitation Document *(where applicable)*
* Pre-Bid Meeting *(where applicable)*
* Details of Bid Closing
* Details of Bid Opening
* Details of Evaluation Committee
* Details of Evaluation Methodology
* Preliminary Examination
* Detailed Technical and Commercial Evaluation
* Financial Comparison (of eligible, compliant, responsive Bids)
* Evaluation of Multiple Lots *(where applicable)*
* Recommendations
* Disagreement by the Evaluation Committee *(where applicable)*
* Signature by the Evaluation Committee members
* Annexes (as appropriate)

The following could be attached as annexes:

* Record of Issue of Solicitation Documents and fees paid
* Record of Issue Addenda
* Record of Pre-Bid Meeting and minutes thereof
* Record of Receipt of Bids
* Record of Bid Opening
* Preliminary Examination and Assessment of Eligibility
* Summary of Detailed Commercial Evaluation
* Summary of Detailed Technical Evaluation
* Combined Technical Specification and Compliance Sheets for each Bid
* Summary of Financial Comparison
* Spreadsheets detailing line item comparisons for partial or split awards
* Spreadsheets showing application of conditional discounts

There are forms that are filled for each of these activities that are to be displayed in soft copy to give an indication of what this means.

4.2 The Contracts Committee decisions:

The Evaluation Committee makes recommendations to the Contracts Committee which may approve, reject or adopt with amendment the recommendations of the evaluation committee. It may also require negotiations to be conducted with the best evaluated bidder on some aspects of the bid.

4.3 The award process:

Where the contracts Committee is satisfied with the bid process a display of an intended award to the best evaluated bidder is made and an award offered subject to the outcome of a notification the notice board. The common practice is that before any contract is signed by the PDE, notification and consent is sought from the Solicitor General. The PPDA is also informed of the award and the contract offer.

5.0 Rights of a Dissatisfied Bidder:

Where a bidder is dissatisfied with the award process she may, by payment of a fee, lodge a complaint for any omission or breach. Such A request for an administrative review must be in writing to the accounting officer and copied to the PPDA within 15 days when the bidder became aware of the incident being complained of.

If no decision is made within 15 days from submission or if the bidder is dissatisfied with decision of the accounting officer, the bidder may within 10 days apply to PPDA for an administrative review.

Any application for an administrative review must be accompanied by the details of the procurement including: Details of the act, regulation or guideline; Explanation of how the rule is breached; Dates of the breach and names of the public officers responsible; Documentary support; Any other relevant information.

On receipt of a complaint an Accounting Officer of a PDE should suspend the procurement process and send the the complaint to the Contracts Committee for investigation. Such an investigation reviews the information available submitted by the applicant, obtained from the staff of the PDE or from other bidders. The Accounting Officer must issue a decision within 15 days of receipt of the complaint stating whether to uphold or reject the complaint, reasons for the decision and corrective measures taken.

Where the complaint is escalated to the PPDA, it will review information provided by the bidder and from the PDE, and request the tender council to carry out an administrative review and report to PPDA and Solicitor General for final decision. Such a decision must be delivered by PPDA within 21 days stating whether the application is upheld or rejected; reasons for the decision and any corrective measures taken.