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**Chalimbana University**

**Integrity. Service. Excellence**

**DIRECTORATE OF DISTANCE EDUCATION**

**BPP 2102: Public Procurement**

**First Edition 2019**

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#

# MODULE OVERVIEW

**Pre-requisite: None**

## Introduction

The procurement systems are no longer a simple routine of clerical function. Today’s procurement professionals have to deal with increasingly dynamic markets and rapidly evolving technologies, purchasing tools and techniques. In addition to traditional regulatory obligations, procurement practitioners have to demonstrate their adherence to the dynamics of the environment and mitigation of corruption. Nonetheless, this will be made possible through a number of study areas especially in the public procurement.

*Welcome to the course ‘Public Procurement’*

**Rationale of the study**

This course provides an overview of how goods, services and works are procured in government, local authority and parastatal organisations The course include consideration of the background to current public procurement policy, procedures and rules relating to procurement practical and the role of elected representatives and officials in making significant procurement decisions.

**Aim**

The aim of this course is to expose learners to the concepts and practices in public procurement of goods, works and services. The programme also seeks to contribute to the development of competent technocrats who will contribute to national development

**Learning Outcome**

At the end of this course, learners should be able to:

* Demonstrate knowledge and understanding of the background to current procurement policy and procedures within the public source.
* Examine the value and scope of public procurement and the roles of key decision makers and organisations.
* Analyse the impact of procurement policy, Government, parastatal and local authority initiates on procurement.
* Assess the significance of financial accountability**.**

## Summary

The module looks at Public Procurement

## Study Skills

As an adult learner, your approach to learning will be different to that of your school days: you will choose when you want to study, you will have professional and/or personal motivation for doing so and you will most likely be fitting your study activities around other professional or domestic responsibilities.

Essentially you will be taking control of your learning environment. As a consequence, you will need to consider performance issues related to time management, goal setting, stress management, etc. Perhaps you will also need to acquaint yourself with areas such as essay planning, searching for information, writing, coping with examinations and using the internet as a learning resource.

Your most significant considerations will be *time* and *space* i.e. the time you dedicate to your learning and the environment in which you engage in that learning.

It is recommended that you take time now before starting your self-study to familiarise yourself with these issues. There are a number of excellent resources on the web. A few suggested links are:

<http://www.how-to-study.com/>

The “How to study” website is dedicated to study skills resources. You will find links to study preparation (a list of nine essentials for a good study place), taking notes, strategies for reading text books, using reference sources, test anxiety.

<http://www.ucc.vt.edu/stdysk/stdyhlp.html>

This is the website of the Virginia Tech, Division of Student Affairs. You will find links to time scheduling (including a “where does time go?” link), a study skill checklist, basic concentration techniques, control of the study environment, note taking, how to read essays for analysis, memory skills (“remembering”).

## Timeframe

You are expected to spend at least 18 hours of study time on this module. In addition, there shall be arranged contact sessions with lecturers from the University during residential possibly in April, August and December. You are requested to spend your time judiciously so that you reap maximum benefit from the course.

**Need Help?**

In case you have difficulties during the duration of the course, please get in touch with your lecturer for routine enquiries during working days **(Monday-Friday)** from 08:00 to 17:00 hours on Cell: +260963804004**; E-mail:** adsikalumbi@gmail.com**; website:** [www.chau.ac.zm](http://www.chau.ac.zm)**.**You can also see your lecturer at the office during working hours as stated above.

You are free to utilise the services of the University Library which opens from 07:00 hours to 20:00 hours every working day.

It will be important for you to carry your student identity card for you to access the library and let alone borrow books.

**List of Equipment**

In this module you will need the following tools;

Note books

## Assessment

In this course you will be assessed on the basis of your performance as follows:

**Continuous Assessment 50%**

Assignment 10%

Project 15%

2 Tests of equal weight 25%

**Final Examination 50%**

**Total 100**

# Unit One – Introduction to Procurement

* 1. **Introduction**

Welcome to the first unit of this module, in this module we will begin by understanding the historical background of public procurement in Zambia. Therefore move on to differentiate between private procurement and public procurement. Lastly but not the least, the basic fundamental principles for good public procurement will be elaborated.

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**1.2 Learning Outcome**

By the end of this unit, you should be able to;

* explain the historical background of public procurement in Zambia.
* differentiate between private and public procurement.
* describe fundamental principles for good public procurement.



**1.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

# 1.4 Historical Background of Public Procurement in Zambia

In Zambia and in the past, Public Procurement was regulated by the Central Supply and Tender Board Act, until in 1982 when the Zambia National Tender Board Act No. 30 was established under cap 394 of the laws of Zambia.

This Act provide for the establishment of:

* Central Tender Committee (CTC)
* Provincial Tender Committee
* Parastatal Tender Committee
* Ministry Tender Committee and
* Procurement and Supplies Units in each of the above Committees

Since then numerous development have taken place in the government’s policies and procurement practices world wide which have in turn necessitated further reform of the public procurement legal framework.

**Developments Which Necessitated Reforms**

The following necessitated the reforms

* COMESA directive
* Decentralization policy of government
* The country procurement assessment review.

**COMESA Directive**

The directive on procurement in 2003 required member states to reform their public procurement legal framework. The objectives of the directives were to:

* Strengthen the capacity of member states in public procurement.
* Enhance competition in the procurement of goods and services within the COMESA free Trade Area.
* Harmonization of public procurement rules and regulations in COMESA.
* Encourage more awareness of procurement opportunities
* Improve national procurement systems through transparent rules, regulations & procedures
* Promote efficient and optimal utilization of Government resources.
* Ensure sustainability of good practices in Public Procurement.

**1.5 Public Vs Private Sector Procurement Practices**

When we talk about public and private sectors, one thing that comes to mind is that we are talking about two different entities that have different work ethics, different roles and responsibilities in the economy. In case of public enterprise, the first and foremost objective is not profit, but public good while for a private enterprise, the primary objective is profit for the shareholders. The private enterprise has to think about profit while involved in awarding contracts for procurement. Because of this clear cut dichotomy, it is not surprising, therefore, that vendors are divided in those who serve the public sector and those who provide services to the public sector.

Please note that despite all the differences between private and public sector enterprises, the differences in the procurement process do not seem to be justified at all. No matter, how you look at private and public enterprise, in the end you have to **veer** around the view that both are doing some sort of business. The general agreement is that, the public enterprise has to “appear” fair and just in how and to whom it awards contracts. Just like we have reservation schemes in employment, there seems to be a similar attitude when it comes to the public sector companies. There must be a certain minimum minority vendors to whom contracts need to be awarded, small businesses, disadvantaged business, woman entrepreneurs and so on that put on a drain on creativity and a fair procurement process. On the other hand, all private sector enterprises have to do is to select the best vendor the fulfills the requirement in the least possible prices with the best possible quality.

**Table 1.1: Notable difference between the public and private sector.**

|  |  |
| --- | --- |
| **PUBLIC** | PRIVATE |
| . Deliver service to the population | . Supply the business entity with inputs |
| . Social and political objectives besides economy | . Strives for efficiency and quality- relates to the firm’s profits |
| . Contracts invariably goes to the lowest bidder that can perform the job at the minimum level of quality while kipping or maintaining standards of safety and performance | . Even a higher bidder can be selected as the objective to find the bidder who can perform the job in the best possible manner while generating the highest value for money(V F M ) |
| . Avoids locked in relationships – subs competition | Sacks stable, long term relationships between buyers and sellers |
| . Often acts as agent, buying for others | . Buying for one’s own firm |
| . Considers full compliance with rules , exact terms of contracts and accountability | . Looks mainly at price and quality and flexible on rules |
| . Transparency- buying in full public view | . Transparency- buying without the “closed” situation of the firm |
| . Accountability- answerable to the public | . Accountability- answerable to the board of directors |
| . Environmental issues dominate in public procurement. | . Environmental issues dominate in public procurement. |

Source: (Pitzer and Thai, 2009)

 **The Purchasing Cycle**

The main stages in the purchasing cycle include:

* Recognition of need
* Specification
* Make or buy decision
* Source, identification
* Source selection
* Contracting
* Contract management
* Receipt possibly inspection
* Payment
* Fulfillment of need

**Procurement** – is the legal acquisition of goods, works and services by an organization from another organization or individual. It includes buying and leasing.

**Public sector institutions**

* Government ministries and departments.
* Provincial administration
* Statutory bodies- ZNBC, ZESCO, Zamtel, Zambia Railways Limited
* Local authorities i-e city municipal or district council established under the local government act.
* Any company management board, association or statutory body in which the government has a majority or controlling interest. This includes companies owned by parastatal companies.

**Public policy**

* Public sector is responsible for implementing public policy.
* All levels of government perform contracting activities. In most countries from municipalities and towns , to provinces and national or federal governments.
* It is important to note that while federal or national level contracting can be bigger in terms of value per contract, local government contracting is also significant in terms of the number of processes and their impact.

Procurement in the public sector is conducted through tendering.

Tendering is the process of writing, receiving and accepting bid or formal offer to do (work or supply goods or services) for stated amounts of money or within a stated time or period.

**1.6 Basic Fundamental Principles for Good Public Procurement**

* Transparency
* Competition
* Efficiency
* Economy
* Fairness
* Value for money (VFM)
* Accountability
* Appeal results
* Professionalism

**Transparency**

This involves giving the public access to knowledge of the public procurement system and confidence in its intentions. It also involves making available for public security accurate and timely information.

Transparency =accountability and competition

**Competition**

This involves giving all eligible suppliers/contractors an opportunity to participate in the procurement process for the provision of goods , works and services.

**Economy**

Public procurement must be conducted in the most economic way .i.e. aggregating demands so as to enjoy city demands.

**Efficiency**

Ensuring that goods, work, or services are procured as and when required .

**Fairness**

Treating all potential suppliers equally.

**Value for Money (VFM)**

This is the optimum combination of whole life costs and quality or fitness for purpose to meet the user’s requirements. VFM is usually defined by the **concepts of economy, Efficiency and effectiveness** . It has ,however, been argued that a predominantly economizing or cost cutting approach has been adopted, with at best an emphasis on increasing **efficiency by maintaining levels of service with fewer staff and resources.**

There has been relatively little concern for effectiveness or ensuring that services are delivered to the public of the right quality in a way that produce desired effects. This general pattern is reflected in public procurement. Therefore, there is an increased emphasis on the importance of taking into account all aspects of cost over time, rather than lowest purchase price.

The following table provides examples of failure to provide VFM and necessary measures which procurement personnel can undertake to avoid such failures;

Table 1.2: Failure to Provide Value for Money (VFM)

|  |
| --- |
| **Failure To Provide Value For Money (VFM)** |
| **Failures** | **Measures to undertake/ check list** |
| * Inadequate management of building projects, contributing to overspends and failure to identify and address problems as they arise
 | * Projects management needs should be carefully addressed and met through out the project
 |
| * Embarking on ambitious computer projects on the basis of inadequate appraisal, and failing to ensure that the system delivers what is required
 | * Rigorous financial and risk appraisal should be carried out before computer projects are approved, and care taken to ensure that users are fully consulted and the system thoroughly tested at each stage.
 |
| * Inadequate re-appraisal of computer project etc. in response to changing circumstances and requirements
 | * Project managers should carry out careful re-appraisals of the continuing validity of the project when change occurs.
 |
| * Generally accepted principles of full and open competition not always observed when privatizing or contracting out the provision of goods and services
 | * Full and open competition should be applied in all save for the most exceptional circumstances (e.g where no alternative suppliers is available) in order to secure the best the market can provide at the most competitive price
 |
| * Failure to secure arm’s length relationships with private sector consultants, leading to conflicts of interest in decisions to spend public money
 | * Care should be taken to avoid actual, potential, perceived or perceivable conflict of interest when employing consultants and staff
 |
| * Failure to recognize situations that give rise to refinishing gains in PFI contracts
 | * Given the complexities and specialist nature of refinancings, departments should seek advice on refinancing matters from suitable experienced advisers including attorney General’s office and obtain sufficient information from contractors about their financing
 |

Source: Treasury Report (2014)

The link between regularity and propriety on the one hand and value for Money and completion on the other is also emphasized in the table below as adopted from the Treasury Report (2014)

Table 1.3:Regularity, Propriety and Value for Money

|  |
| --- |
| **Regularity, Propriety and Value for Money** |
| 7.1 | In additional to regularity and propriety there are repeated references to value for money in “The responsibilities of an accounting Officer” and in Government accounting. The Public accounts Committee (PAC) explores matters related to economy, efficiency and effectiveness that are set out in National Audit Office value for money reports. The committee has on a number of occasions criticized departments for failing to obtain value for money in major procurement projects. Eg. Auditor General’s Report on RDA ZAWA |
| 7.2 | All public procurement of goods and services, including works, must be based on Value for Money, having duel regard propriety and regularity.VFM is not about achieving the lowest initial price: it is defined as the optimum combination of whole life costs and quality. This policy is set out in guidance issued by Office of Government Commerce (OGC) to departments and is produced in chapter 22 of Government accounting. Further guidance available OGC website (www.ogc.gov.uk) |
| 7.3 | Goods and services should be acquired by competition unless there are convincing reasons to the centrally. The form of competition should be appropriate to the value and complexity of the procurement and barriers to the participation of suppliers should be removed.  |
| 7.4 | In relation to the balance between propriety and regularity , and value for money, you should seek to satisfy yourself that existing controls and their cost, are appropriate in relation to the potential for achieving value for money |
| 7.5 | There are a number of ways of achieving value for money in procurement such as by;* Reducing the cost of purchasing and the time it takes- the processing overheads.
* Getting better value for money for goods and services purchased and improved quality of services.
* Improving project, contract and assessment management
* Making procurement decisions on the basis of a long term view of value for money so that the focus is not on the lowest price
* Combining competition with innovative ways of procurement while managing the risk effectively
* Drawing on latest advances in electronic commerce and good procurement practice; and
* Using a range of tools available which promote and can measure value for money gains
 |

Source: Treasury Report (2014)

**1.7 Managing the Risk of Procurement and Contractor Fraud**

Risks associated with the operation of purchasing systems include the force input of invoices, the diversion of payments and misappropriation of purchases. Some examples of controls that should be in place to reduce the risk of fraud in this area are shown in the Table below;

1.4: Managing the Risk of Procurement and Contractor Fraud

|  |  |
| --- | --- |
| How fraud could be committed | Examples of controls |
| Unauthorized use of purchasing systems in order to misappropriate goods or use services for personal gains | * Restrict opportunity to generate payment by using sequentially numbered purchase order Forms for all Orders. Perform independent checks to show that purchase orders are valid and accounted for.
* Authorised signatories and their authorization limits should be established for requisitioning and placing orders and adhered to.
* Invoices should be authorized and matched to orders before the invoice is certified for payment.
* Stock records should be maintained up to date so that stocks, stock usage and orders can be monitored.
* There should be separation of duties between those ordering, receiving goods, and approving and paying invoices. This separation of duties should be reviewed regularly
* Authorized staff only make amendments to the standing data such us the supplier records.
* Budget holders should regularly check items of expenditure charged against their Budget.
* Regular and random management checks should carried out to confirm the existence of assets.
 |
| Short deliveries of goods or services may be accepted as a result of collusion | * Random management checks that involve matching of copy orders to delivery notes and goods should be carried out
 |
| Acceptance of unsolicited goods or expanded orders as a result of fraudulent acceptance of attractions such as gifts  | * Payment for goods should only be made after confirming that goods were properly ordered and authorized
 |
| Misuse of Government cards / Credit Cards | * Named individual should be appointed as card holders.
* All purchases should be approved by the budget holder who should not also be the card holder.
* Use suppliers with whom the department has a contractual relationship or is otherwise a reputable merchant.
* Departments should appoint an individual to be the Card holder manager who will be responsible for appointing Card holders and for dealing with card- issuing bank.
* The Card-issuing bank should distribute the cards to the point in the department agreed with the department Card Holder Manager. The card holder should sign the card in the presence of the card Holder Manager. The department should maintain an updated list of all its card holders.
* Card should only be issued by the bank upon request by the card holder manager.
* Card must be returned to the card Holder Manager when card holders moves or cease to be card holders. The card holder Manager should ensure that the Card is destroyed and the record of the card holder amended.
* Department policy and advice on using GPCS should be clearly documented, kept up to date and effectively communicated to all staff
* Card holders must hold cards securely
* Cardholders much check all entries on statements supplied by the bank and refer any discrepancies to the cardholder manager.
* Budget holders should carry out periodic checks to ensure that GPC statements are properly reconciled and that only authorized purchases are made.
 |
| Orders placed on the internet fail delivered or goods received are not of desired quality | * Make sure your browser is set to the highest level of security notification and monitoring
* Check that you are using the most update version of your browser and ensure their security features are updated.
* Keep a record of the retailer’s contact details including a street address and non mobile telephone numbers. Beware if these details are not available on the website. Do not rely on the e-mail address alone.
* Click on the security icon to see if the retailer has an encryption certificate. This should explain the type and extent of security and encryption it uses. Only use companies that have encryption certificate and use secure transaction technology
* If you have any queries or concerns, telephone the company before giving them your card details to reassure yourself that the company is legitimate.
* Print out your order and consider keeping copies of the retailer’s terms and conditions and return policy. Be aware that there may well be additional charges such as postage and VAT, particularly if you purchasing goods from abroad.
* Check statements from your bank or card issuer as soon as you receive them. Raise any discrepancies with the retailer concerned in the first instance. If you find any transaction on you statement that you are certain you did not make, contact your card insurer immediately.
* Check that you are aware of any payment commitments you are entering into, including whether you are instructing a single payment or a series of payments.
* Never disclose you card’s PIN to anyone, including people claiming to be from your bank or police and never write it down or send it over the internet
* If you have any doubts about giving your card, find another method of payment.
 |
| A contractor could be selected as a result of favouritism or who does not offer value for money | * Draw up and agree a clear specification
* Seek tenders from suitable suppliers
* Draw up clear and comprehensive tender evaluation criteria
* Tenders should be delivered to those responsible for selection without interference
 |

Source: Treasury Report (2014)

**Accountability**

Holding responsible appointed individuals and organizations charged with a mandated to account for specific actions, activities or decisions to those from whom they derive their authority.

**Appeal Rights**

The procurement process must have provisions for a bidder to appeal against an award decision.

**Professionalism**

Knowledge of the public procurement procedures right first time and not unnecessarily delaying the procurement process.

In the public sector there is a call for professionalism and we have to bare in mind that professionalism is not just getting by attitude or just about being a great procurement officer-that is only the starting point.

But we may ask who is a professional?

A professional can be looked at in so many ways as:

* An individual who possess knowledge about a certain field in this case procurement field.
* Whose behavior is usually based on professional code and the law and is consistent.
* Has attitude devoid of politics, mind games, bias, discrimination and blaming.
* An individual who does his/her job with sincerity and maintains accepted etiquette and ethics while performing quality work.
* Professionalism is a question of how we do things, rather than what we do professionalism is an attitude which influences standards, ethics and process. It defines what we stand against.

**Poor Procurement Practices**

* Over buying
* Mis procurement
* Wrong timing
* Over pricing goods, works and services
* Fraud “ghost suppliers”
* Negative in contract management.

**Ethics and Code of Conduct**

Ethics-is a science of wrong and right.

* Decent, fair, good, honest, just, moral principled, upright

**Code**

* Laws, regulations, rules and systems

**Conduct**

* Action, attitude, behavior, manners, ways. code of conduct then can be looked at as a set of regulations which tell us how we should conduct ourselves/ or a set of rules which govern how a certain group of persons with common interest should behave in the normal cause of carrying out their duties.

**Ethics**

* How do you feel about it?
* Would you walk with your head held high?
* Would you like your family to know it?
* Constant use of these questions became habit forming-once it becomes a habit, you are on your way to ethical living.
* Ask yourself these questions before you make a decision.
1. Is it legal
2. Is it fair
* Will the decision favour one against the other?
* Will it give advantage to one (public sector procurement demands giving equal opportunity to all.)

****

* 1. **Activities**
1. Differentiate between private and public procurement.
2. Discuss the fundamental principles for good public procurement.

****

* 1. **Summary**

Congratulation for reaching this far, I am confident that you can explain clearly the historical background of public procurement in Zambia. You are able to differentiate between private and public procurement and can describe fundamental principles for good public procurement

# Unit Two: Transparency and Accountability

**2.1 Introduction**

Welcome to unit two of this module, but before we proceed, I would like to congratulate you for reaching this far. In this unit we are going to look at transparency and accountability in public procurement.

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 **2.2 Learning Outcome**

 By the end of this unit you should be able to;

* discuss transparency and competition in letting contract contracts.
* explain the common types of corruption in the procurement process.
* describe the role of Zambia public procurement authority in public procurement.



**2.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

**2.4 Transparency and competition in letting contracts**

Transparency involves giving public access to knowledge of the public procurement system and confidence in its intentions and making available for public security accurate and timely information.

Competition involves ensuring that all eligible suppliers/contractors are given equal opportunity to participate in the procurement process for the provision of goods, works, and services.

**2.5 How to Ensure Transparency in Public Procurement**

* Invitation for tenders
* Floatation of tenders
* Tender closing
* Tender opening
* Publication of award
* Debriefing

Lack of transparency may lead to corruption. Corruption may be defined as the abuse of public office or trust for private gains. The corrupt procurement system may lead to:

* Weakening institutional capacity
* Erodes public confidence
* Increase the cost of doing business
* Short – circuiting competition
* Diverting budgeting resources away from the provision of public goods and services.

**2.6 Common types of Corruption in the Procurement Process**

1. Conflict of interest- undisclosed interest in supplier/contractor which can be seen by (red flay)
* Unexplained or unusual favouritism of a particular supplier/ Contractor.
* Buyers living beyond their means.
* Buyers seem to have a business on the side.
1. Bribes and kickbacks- i.e. corrupt payments, corrupt influence etc. this can b seen by:
* Non- competitive selections of a supplier or contractor
* Buyers accepting inappropriate gifts
* Increase in wealth not commensurate with known income
1. Excluding qualified bidders- involves variety of tactics used by dishonest Procurement Officers in collusion with corrupt bidders to exclude other bidders which can be seen by
* Significant numbers of qualified bidders failing to bid
* Unreasonably narrow specifications
* Unreasonable bidding time allowance
* Failure to adequately advertise for request for proposals.
1. False, inflated or duplicate invoices, providing invoices for services/products not rendered and price manipulations and duplications which can be seen via:
* Inadequate receiving and payment controls
* Mismatching of proof of delivery with invoices
* No goods/ services received documentation.
1. Leaking of tender information to give unfair advantage. This can be seen through:
* Poor bidding/ tender procedures and controls.
* Winning bid just under the next bid
* Acceptance of late bids
* Late Bidder is the lowest Bidder

**2.6.1 Combating Corruption in Public Procurement**

Corruption in the Public sector can be controlled if the following among other things are done:

* The Procurement systems should be transparent and predictable
* Procurement should be under taken by qualified and appropriately remunerated persons. The system should be clear and easily accessible.
* Should have comprehensive code of conduct.
* The system should have a built in mechanism for inspection and monitoring to ensure compliance.
* There should be continuous capacity building for procurement personnel.
* There should be a wide participation of the stake holders in the process.
* There should be rotation of staff.
* Regular lifestyle audit of buyers.
* Protection of whistle blowers.

**2.7 The Role of Zambia Public Procurement Authority in Public Procurement**

The Zambia Public Procurement Authority (ZPPA) plays a very important role in public procurement in Zambia. This role is backed by legislation in the form of an Act of parliament known as Public procurement Act No. (PPA) No. 12 of 2008, which came into force in December 2008. In order for us to understand the role of ZPPA it is prudent to examine the PPA Act No. 12 of 2008 by looking at the salient features from the Act as this is where they derive their mandate. The following are the features;

* Institutional frame work
* Procurement methods
* Procurement Planning
* Eligibility and Qualification of Bidders and Supplies
* Publication of the Best Evaluated Bidder
* Debriefing
* Preference and reservation Schemes
* Suspension of Bidders/ Suppliers
* Administrative Review and Appeals mechanism

ZPPA is basically a regulatory and an oversight institution and is not involved in Bidding or Awarding of Contracts. ZPPA is run by a Board which is a governs the Authority (First Schedule (2). The Board consists of the following part time Members:

* The Minister of Finance and National Planning- Chairperson
* Four Ministers appointed by the President, one of whom shall be the chair person
* The secretary to the cabinet
* The attorney general
* The Governor of the Bank of Zambia
* The permanent Secretary in the Ministry responsible for financial management
* The permanent Secretary in the Ministry responsible for commerce
* The permanent Secretary in the Ministry responsible works and supply
* Two other persons appointed by the president from among persons in the private Sector of good standing and recognized for their high levels of professional competence and integrity

The term of office for these members is three years from the date of appointment and may be re-appointed for a further period of three years. ZPPA has four major Functions;

* Policy functions
* Regulatory functions
* Monitoring functions
* Capacity Building and professional development functions
1. **Policy Functions**

The policy functions include;

* Ensuring that public procurement policy is consistent with other Government policies.
* Report on the procurement system
1. **Regulatory Functions**

The regulatory functions include;

* Recommending regulations
* Issuing standard documents
* Issuing public procurement Circulars
1. **Monitoring Functions**

These include;

* Monitoring all procurements undertaken by the procuring entities
* Monitoring the execution of Contracts
* Act on procurement breaches and report cases to other relevant bodies like Anti Corruption Commission
1. **Information Management And Dissemination Function**

These include;

* Developing and implementing systems for publishing procurement information
* Developing systems for managing procurement data
1. **Capacity Building and Professional Development Functions**

Under this heading, the functions are;

* Coordinating capacity building
* Issue a code of conduct for staff involved in public procurement

The institutions involved in public procurement are;

* Zambia Public procurement authority (ZPPA)
* Procuring Entities
* Suppliers and Bidders

We can now look at the procuring entities which are Government Ministries and departments, local authorities, parastatal companies and institutions in which Government has majority or controlling interest.

**Procuring Entities**

The procurement entity is responsible for the management of all procurement activities within its jurisdiction and that any function related to procurement shall be carried out only by persons qualified and knowledgeable in procurement in accordance with ZIPS Act No. 15 of 2003. The procurement entities are composed of the following;( PPA Section 11)

* Controlling officer or Chief executive Officer (CEO)
* Procurement Committee
* Procurement Unit and;
* User Department

**Controlling officer or Chief executive Officer (CEO)**

The controlling Officer or CEO is responsible and accountable for ensuring that all the procurement of the procuring entity is conducted in accordance with the ZPPA Act. The functions of the controlling Officer or CEO include;

* To ensure that all procurement of procuring entity are conducted in accordance with ZPPA Act.
* Chair person of the procurement Committee.
* Appoint the members of the Procurement Committee
* Appoint members of the Evaluations committee
* Certify availability of Funds prior to any commencement of ant procurement activity or designated an officer or officers to whom this function shall be delegated.
* Authorize contract award within levels of authority- Currently at K 50,000.00
* Authorize contract documents
* Submit reports to ZPPA as required

**Procurement Committee (S 14)**

The procurement committee shall ensure that all the procurement of the procuring entity is conducted in accordance with the PPA Act. The composition of the PC include;

* The Controller officer/ CEO
* 4-8 members ( of which not more than two (2) appointed from outside the procuring entity and the two shall not be public officers or employees of parastatal companies
* Head of procurement Unit- Ex officio and secretary to the Procurement Committee

The Procurement Committee shall be **the highest approvals authority of the procuring entity and shall be responsible for prio authorization of the procurement process S 15 (2)**

Tenure of Office- Three years and may be re- appointed for a further period of three years.

**Procurement Unit**

Every procuring entity is required to establish a Procurement Unit which shall be responsible for managing all procurement activities of the procuring entity in accordance with the ZPPA act and obtaining all required approvals from appropriate approvals authority (S 20(1). This unit shall be managed by persons qualified and knowledgeable in procurement- S 12(2). The functions of the unit include;

* Plan the procurement activities of a procuring entity and recommend the appropriate method of procurement.
* Preparation of solicitation documents, bid notices, short- lists, evaluation reports, contract award recommendations and contracts
* Manage the bidding process, including pre bid meetings, clarifications, receipt and opening of bids.
* Manage the evaluation of bids and any post qualification or negotiation
* Mange contracts and oversee contract management by the designed contract manager
* Prepare any procurement reports required by the authority, a controlling Officer or CEO or procurement Committee

**The user Department (S 21)**

The function of the user department in relation to procurement are;

* Provide information on forecast procurement requirements to the procurement unit for the purpose of procurement planning
* Initiate procurement requirements
* Provide technical inputs to the procurement process
* Represent the end user of the goods, works, or services in the procurement process
* Mange contracts or assist the designated contract manger as required

**Procurement Methods**

The procurement methods provided for in the PPA Act are

1. Open bidding/ selection
2. Limited Bidding/ selection
3. Simplified bidding
4. Direct bidding
5. Force account
6. Public Private partnership (PPP)
7. Community participation

We shall look at a detailed discussion of each of these methods in another lecture.

****

**2.8 Summary**

We have come to the end of this unit and our main concern was to discuss transparency and competition in letting contracts. Further, am confident you can clearly explain the common types of corruption in the procurement process and describe the role of Zambia public procurement authority in public procurement.

****

**Activity 2.1**

1. Explain the transparency and competition in letting contract in public procurement.
2. Explain how to ensure transparency in public procurement.
3. Explain the common types of corruption in public procurement process.

# Unit 3: Procurement Planning and Bidder evaluation

**3.1 Introduction**

Welcome to unit 3 of the module, in this unit we will look at procurement planning and bidder evaluation. Let us enjoy the lesson as we sit back and relax.

****

**3.2 Learning Outcome**

By the end of this unit, you should be able to;

* discuss procurement planning.
* explain why procurement planning is important.
* discuss the bidder evaluation.
* evaluate administrative review and appeals mechanism.
* illustrate record keeping in procurement.



**3.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

**3.4 Procurement Planning**

Procurement planning can be simply defined as determining what to procure, when and how. The Procurement Plan defines the goods/ works and services that you want to obtain from suppliers or contractors or consultants. A good procurement Plan will describe the process to go through in appointing those suppliers, contractors or consultants. It is a requirement that every Procuring Entity should prepare a annual Procurement plans outlining the procurement activities for that year. A copy of the annual Procurement Plan should be submitted to ZPPA for monitoring purposes .

The legal backing of the procurement planning is derived from section 42 (1) of the PPA Act No. 12 of 2012 which mandates each Procuring Entity to plan its procurement. In particular the Act states that, the Procuring Entity shall;

* Aggregate its requirements where ever possible both within the procurement entity and between procuring entities to obtain Value for Money (VFM) and reduce procurement cost
* Make use of rate or running contract wherever possible to provide an efficient, effective and flexible means to procure goods, works or services that are required continuously or repeatedly over a set period of time.
* Avoid splitting of procurements to defeat the use of the appropriate procurement methods; and
* Integrate its expenditure programme with the procurement Plan

**Why is Planning Necessary?**

Planning is necessary because;

* It is one of the pre requisites of successful project implementation.
* Adequate Procurement planning limits scope on non compliance with agreed procurement procedures
* Planning enhances transparency and predictability
* Planning provides a good basis for monitoring
* Planning facilitates efficient and effective treasury management

**What happens when there is lack of Planning?**

Inadequate Procurement Planning leads to;

* Delays in project implementation
* Inappropriate procurements
* Use of inappropriate procurement methods and procedures and;
* Packaging costs

What are the steps that should be followed in preparing a procurement Plan?

* List items you need to procure
* Determine the quantities and estimate the cost
* Define the process (procurement method, approvals) of acquiring the goods, works or services
* Schedule the time frames for the procurement process

Import considerations for procurement planning

* Annual Planning should be intergrated with applicable budget process and based on indicative or appropriate budgets.
* Procuring Entities should revise and update their procurement plans as appropriate during the curse of the year.

We draw the following Maxim on Procurement Planning;

* Good planning is 80% of the tasks completed
* Poor planning or no planning manifests in the efficiencies in the procurement function

**Procurement Plan Template**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Item No. | Description | Procurement method | Prio or post review | No objection | Bid invitation date | Bid closing/ opening | Evaluation of bids | Submission of evaluation report | Authorization | Notification of contract award | Contract signing | Contract Amount | Contract management | Expected deliver Date |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

**Eligibility of Bidders- Section 61**

Eligibility is the process of conforming to certain standards or criteria set in the Solicitation document. It is a requirement under the Act that Bidders and suppliers should meet certain criteria in order to participate in public procurement such as us;

* Legal capacity to enter into contract i.e Certification of Registration / Incorporation
* Financially sound. The Bidder should be solvent and not be in receivership, bankrupt or wound up. Its affairs administered by a court or a judicial officer.
* Up to date on tax obligations and social security issues
* Not suspended or convicted of professional misconduct within a period of 5 Years
* A bidder should not have conflict of interest in relation to the procurement requirement

**Qualification of Bidders- Section 62**

It is also a requirement under the Act that Bidders should meet such qualification criteria as the PE considers appropriate to a particular procurement requirement. The onus is on the bidder to prove that they have capacity to perform the contract in terms of;

* Professional and technical qualifications
* Financial resources and conditions
* Equipment and other physical resources
* Personnel and managerial capability
* Record of past performance of similar contracts
* Registration or licensing with the relevant professional Body in Zambia or in the Bidder’s country of origin where so required such as ZPPA Registration Certificate, CEEC, National Council for construction, professional Insurance Authority among others

**Publication of the Best Evaluated Bidder- Section 53**

There is a requirement that;

* Within 7 days after obtaining authority to award of contract, the PE should prepare a notice indicating that the best evaluated Bidder and the value of the proposed contract
* The Notice shall be sent to all the Bidders who submitted Bids
* Please note that **No award of contract shall be made for a period of 10 days after the publication of the best evaluated Bidder.** However, this provision does NOT apply under the following circumstances;
* Procurement using simplified bidding
* Procurement using direct bidding
* Procurement using limited bidding on grounds where goods, services or works are only available from a limited number of suppliers and where there is an urgent need for consulting services and engaging in open selection will therefore be impractical

**3.5 Debriefing**

This is the process of informing the unsuccessful bidders that they did not go through and is meant to help losing bidders understand why they lost and encourage them to submit improved bids in future. Following an award of contract, other Bidders will want to know the reasons why they were not selected.

* The Procurement Unit shall promptly give each Bidder reasons for the rejection of its Bid. Please not that details of any other bid shall not be disclosed

**3.6 Preference Schemes**

This is means of promoting certain bidders through giving a margin of preference in evaluation. One of its objective is the development of business owned by certain suppliers through giving such suppliers a margin of preference during financial evaluation.

The procurement regulations have provided the following;

* Citizen influenced company- 4%
* Citizen empowered company- 8%
* Citizen owned company- 12%

NB. Take note of the following:

* Citizen influenced company. 5- 25% of equity owned by citizens
* Citizen empowered company. 25-50% equity owned by Citizen and citizen have significant control of management of the company
* Citizen owned company. At least 50.1% of equity owned by Citizens and Citizens have significant control of management of the company
* The Citizen Economic Empowerment Commission undertakes registration for certain suppliers and they issue Certificates to this effect.
* The public procurement regulations have also provided a 15% preference for domestically produced goods and the nationality of the Bidder is not a condition for such eligibility
* The applicable margins of preference for Citizen Bidders and domestically produced goods are for evaluation purposes only.

**3.7 Reservation Schemes**

This means or restricting certain contracts for specified target groups. Its objective is the development of business among target groups by reserving certain contracts for such groups. The target groups include;

* Citizen or local companies
* Goods manufactured in or provided from Zambia
* Zambian suppliers in a particular industry or economic sector
* Small and medium size enterprises
* Enterprises owned by women

It is important to note that procurements under reservation schemes requires competition among eligible bidders and requires the supplier to be qualified to perform the contract.

**3.8 Suspension of Bidders/Supplies- Section 65**

Suppliers may be suspended from participating in public procurement on the following grounds;

* Providing false information in a bid or any other document submitted to the procuring entity in connection to the procurement process or contract.
* Connivance to interfere with the participation of their bidders
* Refusal to sign a contract or to furnish a performance contract in accordance with the terms in the solicitation document and bid, if required to do so and;
* Failure to comply with a bid securing declaration

A bidder or supplier can only be suspended after following a certain procedure and this is only done by ZPPA. The process which include;

* A reasonable notice should be given to the bidder/ supplier of the grounds for the proposed suspension and the details of the alleged grounds.
* Reasonable grounds has been given to the bidder or supplier to respond to the alleged grounds and provide information in defense; and
* A thorough investigation of the facts of the case has been undertaken by the authority

The period of suspension is:

* Minimum period: 1 year
* Maximum period: 5 years

The supplier or Bidder can be permanently barred from participation in public under the following;

Misconduct relating to the submission of bids, including corrupt, fraudulent, collusive or coercive practices, price fixing, a pattern of under pricing of bids and breach of confidence

**3.8 Administrative Review and Appeals Mechanism**

* Substantial non-performance or under-performance of contractual obligations provided that the no-performance or under performance is not due to any **force majeure**
* Conviction of a criminal offense relating to obtaining or attempting to obtain a contract or subcontract or
* Conviction of a crime related to business or professional misconduct.

The purpose of the administrative and appeals mechanism is to provide rapid resolution of complaints and is a cost effective way of reviewing procurement decisions by the Procuring Entities. The procedure is that;

* Bidders aggrieved with a procuring entity’s decision may seek Review of that decision in writing to the Controlling officer or CEO
* A bidder not satisfied with the decision of the Controlling officer or CEO may appear to ZPPA
* An application to ZPPA shall be made in a prescribed manner upon payment of a prescribed fee
* ZPPA will not accept the application unless it submitted within 10 working days from the date the bidder submitting the application was informed of or became aware of the circumstances giving rise to the application or the date from the time the bidder should have become aware of those circumstance, whichever is earlier.
* ZPPA shall upon receipt of the application;
* Institute an investigation
* Ensure that No contract award is made prior to the resolution of award; and
* Issue a written decision, within 10 working days after submission of the application.

**3.9 Records of Procurement**

The procuring Entity shall maintain records of all procurement proceedings. The records required shall be maintained for a period of seven (7) years from;

* Contract completion or termination
* The decision to terminate the procurement decisions
* The settlement of any disputes under the contract or
* The resolution of any complaint or appeal made.
	1. **Summary**

Congratulation for reaching this far and am sure we are now confident in discussing procurement planning and why it procurement planning is important. Further, we can clearly elaborate bidder evaluation and administrative review and appeals mechanism. Furthermore illustrate record keeping in procurement.

****

**3.1 Activities**

1. Explain the procurement planning.
2. Discuss why procurement planning is important.
3. Discuss the bidder evaluation.
4. Illustrate record keeping in procurement.

# Unit 4 – Methods of Procurement

* 1. **Introduction**

Welcome to unit 4 of this module, let us now look at the methods of procurement.

****

**4.2 Learning Outcome**

By the end of this unit, you should be able to;

* describe the methods of procurement.



**4.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

**4.4 Methods of Procurement**

As already discussed , the public procurement Act provides for the methods of procurement that should be used wherever the procuring entity is undertaking any procurement as defined under **Part iv of the PPA Act No. 12 of 2008 section 25-36**. The methods are as follows;

1. Open bidding/ selection
2. Limited Bidding/ selection
3. Simplified bidding
4. Direct bidding
5. Force account
6. Public Private partnership (PPP)
7. Community participation

The choice of the procurement method to be used is determined by a number of factors which include;

* Estimated value of the procurement
* Nature of the procurement. That is, whether it is goods, services , works or consulting services
* Circumstances. That is urgency, contract extension or limited number of sources

Where the choice of the procurement method is determined by circumstances, the Procurement Committee’s role is to control use of such circumstances.

1. **Open bidding/ selection**

According to PPA Act, Open Bidding means “ a procurement methods for goods, works and non consulting services which is open to participation on equal terms by all eligible Bidders through advertisement of the opportunity.”

While Open selection means a procurement method for consulting services which is open to applications for short-listing on equal terms by all bidders through advertisement of the opportunity.

Please note that **open bidding and open selection** is basically the same method. The difference comes in on the type of procurement you are under taking. For instance when procuring goods, works or non consulting services, we use the term “ Open Bidding” while when procuring consulting services we use the term “ Open selection”

The objective of open bidding is to obtain value for money and promote private sector participation through the maximum possible competition while the objective of open selection is to promote private sector participation to obtain the best possible short-list in order to obtain value for money.

Open bidding/ selection is used for high value procurements which is above K500,000 for goods, works and consulting services and above K300,000 for consulting services.

Open bidding and selection can done under International Competitive Bidding (ICB) and International Competitive Selection (ICS) for goods, works and non- consulting services, and consulting services respectively. The same methods can also be used under National competitive Bidding (NCB) and National Competitive Selection (NCS).

International Competitive Bidding/ selection are methods of procurement commonly used by most Government agencies around the world. Tenders are publicly advertised competitively; open to all eligible and qualified bidder. The procedure is variously called “Public Bidding/ selection or open Tender/ selection” the reasons for its predominance use are obvious. First, where use of public funds is involved, a public agency is bound to produce an equal opportunity for all qualified bidders in eligible countries through international notification of opportunity, use of appropriate standards and specifications, absence of constraint discrimination against any a particular group or nationality in such countries, and disclosure of precise criteria for selection of successful bidder in an open process. ICB and ICS when conducted in a fair and open fashion also serves as a safe guard against corruption and favouritism.

The ICB/ ICS is used where;

* The estimated value exceed the prescribed threshold i. above K500,000. This is the current value
* The goods, works or non consulting services are not available under competitive price from at least three suppliers in Zambia
* Regional or international participation is required in accordance with an agreement entered into by the Government

Please note that participation in NCB and NCS is only open to citizens and local suppliers while participation in ICB and ICS is open to all eligible bidders including citizens, local suppliers and foreign Bidders.

**Procedures for ICB and ICS**

There are formal procedures that are followed whenever ICB/ICS procurements are being done. These are;

* Detailed invitation to bid document
* Publication of the Bid Notice
* Public bid opening
* Notification of best evaluated Bidder
* Public Notice of contract award which exceed prescribed threshold. K500,000

**The notice can be published in the following media;**

* Government Gazette
* Local daily newspapers
* Internet/ website
* International Journal/ magazine
* Embassies
* Notice Board of Procuring Entities

The minimum periods of advertising are as follows;

* International Competitive Section ICS Pre qualification Minimum- 2 Weeks
* International Competitive Section ICS Pre qualification Maximum- 3 Weeks
* International Competitive Bidding Minimum- 4 Weeks
* International Competitive Bidding (ICB) Maximum - 6 Weeks

Opening Bidding / selection is a preferred procurement method because;

* The invitation reaches widest possible market
* It enhances competition
* It enhances value for money (VFM)
* It ensure transparency

Open bidding / selection has also some disadvantages which include;

* Slow and formal stages to follow
* Not suitable for emergency situations
* It’s expensive to conduct. Why do you think so?
1. **Limited Bidding/ selection**

Limited Bidding / selection is a procurement method for goods, works and non consulting services, and consulting services (selection) where bids are obtained by direct invitation to a short list of bidders, without open advertisement/ competition.

The objective of open bidding/ selection is to obtain competition and value for money (VFM) to the extent possible where the circumstances do not justify or permit the use of open bidding/ selection

This method is appropriate where;

* Requirement is of specialized nature
* Public safety or public security considerations
* Urgency of the procurement
* Limited number of potential firms
* Open bidding/selection have failed to bring an award of contract

 Note that where limited bidding/selection is used on grounds of a limited number of suppliers or sources. A notice shall be published stating;

* The nature of the procurement requirement
* That limited bidding/selection is being used on grounds of limited number of sources.
* The proposed short list
* That any potential bidder intending to participate may request to be included on the short list

An appropriate authority shall then authorize the proposed short- list before issuing the Solicitation documents.

1. **Simplified Bidding- Section 31**

Simplified Bidding” means a procurement method which compares quotations from va number of bidders. Also known as shopping

The objective of simplified bidding is to obtain competition and value for money to the extent possible, while maintaining economy and efficiency, where the circumstances do not justify the use of open bidding.

Simplified bidding may be used where the estimated value of the goods, works or consulting or

non consulting services does not exceed the prescribed threshold K500,000 and K300,000, respectively.

* Mostly used on readily available off-shelf goods
* Not published in Gazette or newspapers
* Minimum three (3) Quotations
1. **Direct Bidding- section 32**

Direct Bidding means a procurement method where a bid is obtained directly from a single bidder, without competition.

The objective of direct bidding is to achieve timely and efficient procurement, where the circumstances or value do not justify or permit the use of competition.

* Sole/single source identified and invited to submit offer
* No public bid opening
* Negotiation may be required with the Bidder before contract award

Direct bidding may be used where;

* the goods, works or consulting or non-consulting services are only available from a single source and no reasonable alternative or substitute exists;
* due to an emergency, there is urgent need for the goods, works or services making it impractical to use other methods of procurement because of the time involved in using those methods;
* additional goods, works or services must be procured from the same source because of the need for compatibility, standardization or continuity;
* an existing contract could be extended for additional goods, works or services of a similar nature and no advantage could be obtained by further competition; or
* the estimated value of the goods, works or services does not exceed the prescribed threshold.( Currently K10,000.00)

Please Not that where Direct Bidding is used other than on account of Value (K10, 000.00), a “No” objection must be obtained from ZPPA prior to commencement of the Procurement process.

1. **Force Account**

Force Account means construction by the use of the procuring entity’s own personnel and equipment, may be the only practical method of constructing some kind of works.

Force account is appropriate where;

* Work involved can not be defined in advance
* Works are small and scattered or in remote locations
* Works required without disrupting ongoing operations
* There is an emergency

What are the disadvantages of using Force account?

* Quality may be compromised
* Works may not be done timely
* Works may exceed the estimated cost
1. **Public Private Partnership (PPP – Section 35)**

Public Private Partnership (PPP) means investment through private sector participation in an infrastructure project or infrastructure facility. It usually involves partnerships between public and private sectors for the purpose of Design, Finance, Build, Operate and Transfer (the “DFBOT) basis projects which would traditionally be regarded as falling within the remit of the public sector. This procurement is covered under the Public- Private Partnership Act No. 14 of 2009.

The key features of Public Private Partnership (PPP) are;

* A private partner invests in public infrastructure and provides services to government or to the community on government’s behalf. i.e Student Hostels
* Government retains responsibility for delivery of core services. i.e Education
* Government and private sector working together under long term contract. 10,15,20 1tc years

**Types of PPPS**

The types include service contracts, management contracts, Lease, Concession, Build Operate Transfer (BOT), Divestiture and BOOs.

1. **Service Contract.**
* Contracting out
* Private sector performs a service for a fee
* Used to reduce cost of noncore function of the public entity
* Examples- Meter reading, bill collecting, security services
* Contracts usually for 1- 2 years
1. **Management Contract.**
* This is where the private entity is paid a fee for operating and maintaining a government service delivery system
* Private entity is responsible for to day-to-day management in line with set targets. i.e Necor Zambia Ltd. with Asycuda at ZRA offices
* Contracts usually for 3-5 years
1. **Lease**
* Private entity is responsible for operations while the government retains ownership of the facilities
* Private entity also responsible for providing working capital and funding for replacement or upgrading of certain assets
* Duration of lease between 5-10 years depending on payback period
* Private entity forms a special purpose company
1. **Concession**
* Private entity finances a project and is responsible for operations and maintenance while the government retains ownership
* Private entity to provide long term investment capital in return for fees from service users
* Full use rights revert to government after agreed period of time, usually 1- -30 years.
* Private entity forms a special purpose company to carry out the services
1. **Build operate Transfer**
* The key obligations of private entity include;
* Designing the infrastructure
* Financing the infrastructure
* Building the infrastructure
* Maintenance of the infrastructure
* Providing services; and
* Transferring control of facilities to government after expiry of contract period
* Contract period usually 20 – 30 years
1. **Divesture and BOOs**
* This is also referred to as Privatization
* May be partial or complete divestiture
* Transfer ownership of assets to the private sector

Benefits of Private – Public partnership include;

* Acceleration of infrastructure development through mobilization of private sector capital
* Reduced cost because of private sector efficiencies
* Improved quality of service
* Frees government funds for other projects
* Risk transfer.
1. **Community participation in Procurement**

This happens where, in the interest of project sustainability, or to achieve certain specific social objectives of the project, it is desirable in selected project components to -

* + call for participation of local communities and nongovernmental organizations;
	+ increase the utilization of local know-how and materials; and
	+ employ labour-intensive and other appropriate technologies;

Please note that the procurement procedures, specifications, and contract packaging shall be suitably adapted by ZPPA to reflect these considerations in the contract document

**Levels of Authority**

The following table shows the current threshold levels

**Table 4.1: Levels of Authority**

|  |
| --- |
| **Levels of Authority** |
| Procurement Cost | Authorizing Officer |
| Up to K5000.00 | Senior officer |
| K5000.00 to K10,000.00 | Head of Department |
| K10,000 up to K50,000.00 | Controlling Officer/ Chief Executive Officer (CEO) |
| K50,000 and above  | Procurement Entity’s Procurement Committee |

Source: (ZPPA, 2012)

**4.7 Summary**

Let us give ourselves a pat on the back after completing the discussion on the methods of public procurement. But we must agree that it has been a very interesting topic.

****

**Activity 4.1**

1. Explain the methods of public procurement with relevant examples.

# Unit 5 Tendering Methods

**5.1 Introduction**

Welcome to unit 5 of the module, here we are going to look at the tendering methods.

 ****

**5.2 Learning Outcome**

By the end of this unit you should be able to;

* discuss the tendering methods.



**5.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

**5.4 Tendering Methods**

Tendering is method used whenever a public institution is procuring goods, works, non consulting services and consulting services. Tendering can either be formal or informal.

Formal Tenders are those tenders were the invitation for Tenders are Gazetted. They include limited bidding/ selection, Direct Bidding/ selection, Public – private partnership. The difference being the others are not Gazetted but all other conditions of Formal tenders apply.

Informal Tenders uses a minimum of three Quotations which is simplified Bidding / selection. Informal tenders are;

* Not gazette
* Not advertised in newspapers
* Low value and off the shelf ( less that K 50,000)
* Minimum three Quotations invited from registered suppliers

Proper planning of procurement of recurrent items need to be based on and adequate stock control system. User departments should plan their requirements in such a way the same Goods, Services or Works are not procured more than once in every three months within the limits given to the Controlling Officer/ CEO or his subordinate where delegation has been effected. K50, 000. Or the Procurement Committee

Items or consumables which require constant use such as fuel and Lubricants should be procured through rate and running contract arrangements. Ideally, the requirements should be planned for procurement on an annual basis. It is permitted to subdivide the requirements to bring the total value within authorized threshold (section 43 (3) of the PPA Act No. 12 of 2008)

Before making any purchase arrangements through informal tenders. The Purchasing officer must check whether the item to procured falls under the Board or provincial Tender committee’s running contract arrangement in which case direct purchases shall be made from the contracted suppliers.

A check should also be made from specialized central stores or service agencies such as Government Stores, Medical Stores, Government printers and from own ministry / department stores offering competitive quality Goods, Services and in the case of non availability of the requirements, a written confirmation shall be obtained.

An estimate of the value of procurement must be made. For this purpose, the price previously paid of similar procurement, verbal information or any other market sourced information shall be utilized. The estimate must be shown in the evaluation form.

**5.4 Informal Tenders for Goods, Services and Works**

As already discussed, this procurement mainly uses the simplified Procurement method as the items, services or works are of low value and off the shelf, there is no need of publishing the requirement in the Government Gazette and all you need is collection of minimum of three Quotations from the approved list suppliers maintained by ZPPA or NCC depending on what you are procuring. i. Goods, non consulting services or works.

**5.5 The Procurement Procedure under Simplified Bidding**

The following procedure is used under simplified or informal bidding

* Preparation of a Request for Quotation/ Enquiry
* Invitation for Quotations
* Receipt of Quotations
* Evaluation of Quotations
* Award of Quotations
* Award of contract
* Issue Local Purchase Order
* Expedite deliveries
* Receive goods, services or works
* Prepare Goods Received Note (GRN)
* Pay for the goods, services or works

**5.5.1 Preparation of Enquiry**

The following should be taken into account when preparing Enquiries;

* The Enquiry should be in writing
* Specifications should be clear, broad based and unambiguous
* Other details include
* Quantity/ bills of Quantity
* Delivery date/ completion date
* Payment terms
* Validity period
* Warranty/ guarantee
* Address, date and time for submission

**5.5.2 Invitation for Quotations**

The Tender Enquiries shall be invited only through written invitations. A sample Rfq is as follows;

The specifications shall be clear and broad based in order to encourage competitive tenders. If a brand name or model cannot be avoided, words such as” or other article of comparable quality” or “ or equivalent” shall be is used. Zambian Standards specifications shall be used, where available. In the absence of the Zambian standard specifications, any other international standards shall be used such as BSI, ISO etc.

For Equipment, vehicles etc, the performance data i. Capacity, the output, details of engine, motor, whether Petrol or diesel driven shall be specified.

**Receipt of Quotations**

Quotations may be;

* Collected from the supplier
* Delivered by the supplier to the purchasing office
* Received by fax
* Received through the post
* Received through the tender box

Evaluation of Received Quotations

On receipt of Quotation, these should be carefully examined particularly in respect of

* Examine for compliance with enquiry
* Prepare analysis sheet
* Recommendation for award
* Issues to consider in the analysis sheet include
* Compliance/ meeting specifications
* Validity of quotations
* Meeting the Delivery period
* Acceptability of Payment terms
* Unit price / total price
* Submission of value Added Tax Certificate or Valid Tax Clearance Certificate
* Submission of Certificate of Incorporation/ registration Certificate
* ZPPA Registration or National Council for Construction for works

The following is an Example of the analysis sheet for a requirement of 100 reams of Bond paper under the following RFQ.

CHALIMBANA UNIVERSITY

P.O BOX E/1

LUSAKA

September 28, 2019.

TO: ……………………………………………

 …………………………………………….

 …………………………………………….

 **RFQ No: 0001**

**REQUEST FOR QUOTATION**

You are kindly invited to quote for the supply of the following goods and services. Please complete this form with prices, delivery period, validity of quote etc. sign and return to Chalimbana University. Attach additional documentation necessary ie Tax Clearance Certificate, VAT, Certificate of Incorporation etc. Fax/E-Mail offers will NOT be accepted

Table 5.1: Form

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Item No. | Description | Quantity | Unit rate | Amount |
| 01 | Bond paper, A4, 80 gms | 100 |  |  |

Source: (ZPPA, 2012)

**Terms and Conditions**

1. Warranty: Minimum 6 Months
2. Payment: Cash on Delivery
3. Delivery period: Within 3 weeks after receipt of Order

Your quotation, in sealed envelope, should reach the under signed not later than 10:00 hours September 11, 2019.

Tity Banda

**Head- Procurement and Supplies Unit (PSU)**

**Table 5.2 Evaluation Analysis for Bond Paper**

|  |  |
| --- | --- |
| **Requirement for Enquiry** | **Suppliers** |
| **A** | **B** | **C** | **D** |
| White Bond paper A4, 80gms | White Bond paper A4, 80gms | White Bond paper A4, 80gms | White Bond paper A4, 80gms | White Bond paper A4, 80gms |
| Delivery period- maximum 14 days | 10 days | Ex- stock | 7 days | 5 days |
| Quotation Validity- 30 Days | 30 days | 30 days | 30 days | 30 days |
| Payment Terms- 100% on delivery | 30 days after delivery | 100% with Order | 100% upon delivery | 100% upon delivery |
| Unit price | K20.00 | K22.50 | K18.00 | K19.50 |
| Quantity | 100 | 100 | 100 | 100 |
| Sub Total | K200.00 | K2,250.00 | K1,800.00 | K1,950.00 |
| 16% VAT | Inclusive | Inclusive | K288.00 | Inclusive |
| Total price VAT inclusive | K200.00 | K2,250.00 | K2,088.00 | K1,950.00 |
| **Recommended supplier: D why?** |

**Source ( Chau, 2019)**

Quotations to reject;

* Un solicited quotations
* Supplier submitting more than one Quotation
* Suppliers without valid Tax Clearance Certificate or VAT if registered
* Quotations received after deadline for receipt of quotation
* Quotations without vital information

Purchase authorization

* Appropriate authority approves the award. i.e Controller officer/ CEO K50,000 , PC Above K500,000.00
* The authorizing authority should be furnished with the following documents;
* The original request or Purchase requisition
* Request for Quotation
* All the received quotations
* Evaluation Form
* Recommendation

Issue purchase order

* PSU prepares and issues purchase order to supplier

Expedition /supervision

* PSU expedites order for goods and services
* PSU and appropriate staff supervise works

 Receipts of goods/ works

* Stores receives goods and issues goods received note
* Certificate of completion for works issued
* Payments

Intermission

CHALIMBANA UNIVERSITY

P.O BOX E/1

LUSAKA

March 28, 2019.

TO: ……………………………………………

 …………………………………………….

 …………………………………………….

 **RFQ No: 100**

**REQUEST FOR QUOTATION**

You are kindly invited to quote for the supply of the following goods and services. Please complete this form with prices, delivery period, validity of quote etc. sign and return to Chalimbana University. Attach additional documentation necessary ie Tax Clearance Certificate, VAT, Certificate of Incorporation etc. Fax/E-Mail offers will NOT be accepted

**Table 5.3: Request for Quotation**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Item No. | Description | Quantity | Unit rate | Amount |
| 01 | Desk top Computer* Pentium 4
* 10 GB Memory
* 600 MHz processor speed
* 17” Colour Monitor
* Inbuilt modem for internet connectivity
* 4 USB Ports
* Ms Professional XP on CD with License
 | 02 |  |  |
| 02 | Desktop Printer* Laser Printer
* 20 ppm Colour
* 30 ppm Black
* Memory Size 2 MB
 |  |  |  |

Source (Chau, 2019)

Terms and Conditions

1. Warranty: Minimum 6 Months
2. Payment: Cash on Delivery
3. Delivery period: Within 3 weeks after receipt of Order

Your quotation, in sealed envelope, should reach the under signed not later than 10:00 hours March 11, 2019.

Thelma Bwalya

**Head Procurement and Supplies Unit**

**SUPPLIER A**

5 August 2017

**QUOTATION**

Reference is made to your Enquiry No. 018. We are pleased to quote as follows:

**Item 1: Computer**

 Specifications Pentium V; 15GB memory; 900MHz processor speed; 14” TFT colour

Monitor; modem for internet; enhanced keyboard; 3 USB ports for mouse, printer and keyboard; 2 USB ports for flash disc

 Software MS Professional XP

 Total price K18, 000.00, inclusive of VAT for both two units

 **Item 2: Printer**

Specifications HP colour laserjet printer; memory 3 MB; 20 ppm colour; 30ppm black;

 Weight 5.3kg

Total price K 6,600.00, for two units, inclusive of VAT.

**Terms**

1. Delivery: 3 weeks
2. 50% down payment with order
3. Warranty 8 months
4. We offer after-sales service and maintenance plan

JJ Kondwe

**DIRECTOR**

**SUPPLIER B**

5 August 2017

**QUOTATION**

Reference is made to your inquiry No. 018. We are please to quote as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Item** | **Description** | **Unit Price** | **Qty** | **Total Price** |
| 1 | Desktop computerPentium IV10 GB Memory900 MHz speed14”colour screenModem for internet connectivityUSB ports  | 7,500 | 2 | 15,000 |
| 2 | PrinterHP Desktop 30ppm colour40ppm black Laser Printer | 3,600 | 2 | 7,200 |
| Subtotal |  |  |  | 22,000 |
| VAT @ 17.5% |  |  |  | 3,850 |
| Grand total |  |  |  | 25,850 |

Conditions

1. COD payments terms
2. Delivery 2 weeks
3. Warranty 6 months

Emmy Botha

**SALES EXECUTIVE**

**SUPPLIER C**

6 August 2017

**QUOTATION**

Reference is made to you Enquiry No.018. We are please to quote as follows:

Desktop Computer

Unit Price: K8,000

Quantity: 2

Subtotal: K16,000.

VAT K2,800

Total price K18,800

Description: 700 MHz Pentium V Processor; 14” TFT Colour monitor; internet connectivity, 15GB

 Memory, 5 USB ports; MS XP Professional

Printer

Unit Price: K3,800

Quantity: 2

Subtotal: K7,600

VAT: K1,330

Total Price K8,930

Description: canon colour desktop printer, inkjet; print speed 30 ppm black, 20ppm colour, memory 2

 MB

Conditions

1. Warranty-12 months
2. We accept COD terms of payment
3. Delivery: ex-stock

A Muzyo

**SALES DIRECTOR**

**5.6 Formal Tendering**

Formal tendering is usually used for open Bidding/ selection procurement method, Limited bidding/ selection and Direct bidding. The following is the procedure;

* Preparation of the solicitation Document
* Invitation
* Receipt of Bids
* Evaluation of Bids
* Award of contract
* Signing of Contract and
* Contract administration

The contents of the Solicitation Documents are;

**PART 1 – BIDDING PROCEDURES**

* Letter of invitation
* **Section I** Instruction to Bidders
* **Section II.** Bid data Sheet
* **Section III. Evaluation and Qualification Criteria**
* **Section IV. Bidding Forms**
* **Section V. Eligible Countries**

**PART 2 – SUPPLY REQUIREMENTS**

* **Section VI. Schedule of Requirements**

**PART 3 – CONTRACT**

* **Section VII. General Conditions of Contract (GCC)**
* Section VIII. Special Conditions of Contract (SCC)
* Section IX: Contract Forms
* **Attachment: Invitation for Bids**

SBD for Procurement of Goods

The following is the brief explanation of what each section of the solicitation document has. and description

**Summary**

**PART 1 – BIDDING PROCEDURES**

**SectionI. Instructions to Bidders (ITB)**

This Section provides information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. Section I contains provisions that are to be used without modification.

**Section II. Bidding Data Sheet (BDS)**

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Bidders.

**Section III. Evaluation and Qualification Criteria**

This Section specifies the criteria to be used to determine the best-evaluated bid, and the Bidder’s qualification requirements to perform the contract.

**Section IV. Bidding Forms**

This Section includes the forms for the Bid Submission, Price Schedules, Bid Security, and the Manufacturer’s Authorization to be submitted with the Bid.

**Section V. Eligible Countries**

This Section contains information regarding eligible countries.

**PART 2 – SUPPLY REQUIREMENTS**

**Section VI. Schedule of Requirements**

This Section includes the List of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured.

**PART 3 – CONTRACT**

**Section VII. General Conditions of Contract (GCC)**

This Section includes the general clauses to be applied in all contracts. The text of the clauses in this Section shall not be modified.

Section VIII. Special Conditions of Contract (SCC)

This Section includes clauses specific to each contract that modify or supplement Section VII, General Conditions of Contract.

Section IX: Contract Forms

This Section includes the form for the Agreement, which, once completed, incorporates corrections or modifications to the accepted bid that are permitted under the Instructions to Bidders, the General Conditions of Contract, and the Special Conditions of Contract.

The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

**Attachment: Invitation for Bids**

An “Invitation for Bids” form is provided at the end of the Bidding Documents for information.

INSTRUCTIONS TO BIDDERS

Guide to bidders on how to prepare Tender Documents

* Specifies evaluation criteria
* Specifies tender closing and opening dates
* Bid security
* Identifies client

DESCRIPTIONS AND SPECIFICATIONS

* Description and mentions requirements- Quantity and delivery period
* Should be clear, broad based, neutral to allow for fair competition

CONDITIONS OF CONTRACT

* Specifies conditions that will the parties involved
* Two types of conditions;
* General conditions of conditions of contract ( General)
* Special Conditions of contract ( Specifies)

SAMPLES FORMS

* Bid Form
* Price Schedules
* Bid Security
* Performance security
* Manufacturer’s authorization
* Bank Guarantee for advantage
* Contract Form

BID FORM

* Form which legally binds the tenderer to the procurement
* Summarizes the Bid sum and delivery period
* Must be signed by an authorized signatory

PRICE SCHEDULE

* Shows details of price structure
* Shows the source of items (local or imported)

Receipt of Bids

* Date, time, and place of closing and opening as in tender document
* Open in public
* Attendance Register
* Tender opening Report

Receipt of Bids

Details read out during Tender opening

* Name of Bidder
* Description of goods
* Total Tender Price
* Delivery period
* Alternative solution or conditions
* Presence or absence of tender security and amount
* Withdrawals

Evaluation of Bids

* This involves examination of bids with a view of selecting the lowest evaluated bidder
* Evaluation based on provisions contained in the tender document
* Evaluation Committee appointed by the CEO/ CO
* Where internal capacity is lacking a consulting firm may be appointed
* Comprises technical and procurement personnel
* Committee members to observe confidentiality
* Evaluation report prepared

Role of tender Committee

* Ensure evaluation is done in accordance with the tender document
* If evaluation is inconsistent, the tender committee rejects recommendation and directs next step
* Inconsistent evaluations delays award of contracts

Evaluation criteria

Please note that the evaluation criteria is derived from the tender document and evaluation is done in three stages namely;

* Preliminary evaluation
* Technical Evaluation; and
* Commercial Evaluation

Preliminary Evaluation

This is the first stage and it involves;

* This is an administrative check
* The purpose is to identify and reject bids that are incomplete, invalid, or not eligible
* Non responsive bids at this stage are not considered for further evaluation

Preliminary Evaluation- Verification. It involves;

* Validity of bid
* Whether bid is signed
* If bidder is joint venture, a joint venture agreement should be submitted
* If bidder is an agent, an authorization from the supplier or a manufacturer must be provided

Preliminary Evaluation- Eligibility which t involves;

* Must have purchased the Tender document
* In case of a prequalification, the bidder should have been prequalified
* Legal status of the company

Preliminary Evaluation- Bid Security. It involves;

* Must be original and in the name of the purchaser
* Must be in the amount specified and must be valid for the required number of days
* If submitted by the joint venture, it must be in the name of all partners to joint venture

Preliminary Evaluation- Completeness of Bid. It involves;

* Should quote for the items or as required by the Solicitation Document
* Should submit all the information requested in the Solicitation document

After checking for all these details, the information can be summarized in a form of a table as shown below;

Table 5.4: Preliminary Evaluation

|  |  |
| --- | --- |
| Criteria | Bidder |
| A | B | C | D | E | F |
| Verification | Y | Y | Y | N | Y | N |
| Eligibility | Y | Y | Y | Y | Y | Y |
| Bid Security | Y | Y | N | N | Y | Y |
| Completeness of Bid | Y | Y | Y | N | Y | N |
| Responsiveness | Yes | Yes | No | No | Yes | No |

Source :( ZPPA, 2012)

Key

Y- Complied Yes- Responsive

N- Not Complied No- Non- responsive

Preliminary Evaluation- Comments

After summarizing the information in the table, it is important to make comments on the results. Comments on the above table could be;

* Bidder C is non- responsive because its bid security is less than 2% of its bid sum.
* Bidder D is non- responsive for not submitting a manufacturer’s authorization and because the validity of its bid security is less than 120 Days
* Bidder A, B and E are responsive and proceed to the technical evaluation stage.

TECHNICAL EVALUATION

Technical evaluation involves checking conformity to the specifications provided in the bidding document. If we want to buy a vehicle for example, we can say that we want a 4 X 4 Double Cab Van, engine Capacity between 2500- 3000cc Diesel, Minimum Fuel Tank Capacity of 70 Liters. The Technical evaluation could be as follows;

Table 5.4 Technical Evaluation

|  |  |
| --- | --- |
| Specifications | BIDDER |
| A | B | E |
| 4 X 4 Double Cab | Y | Y | Y |
| 2500- 3000 cc | Y | N | Y |
| Minimum Fuel Tank capacity of 70 Liters  | Y | N | Y |
| Responsiveness | Yes | No | Yes |

Source :( ZPPA, 2012)

Key

Y- Complied Yes- Responsive

N- Not complied No- Non- responsive

Technical Evaluation- Comments. The following comments can be made;

* Bidder B is non responsive for offering motor vehicles with an engine capacity of 2000cc and for offering a fuel tank capacity of 60 Liters.
* Bidders A and E are responsive and proceed to the commercial evaluation

**COMMERCIAL EVALUATION**

Commercial evaluation usually take into account commercial factors such as ;\

* Discounts
* Domestic preference
* Preference schemes like CEC empowerment
* Delivery period
* Correction of arithmetic errors
* Conversion to single currency
* Price comparison
* Terms of payment

**Table 5.6 Commercial evaluation**

|  |  |
| --- | --- |
| Description | Bidder |
| A | E |
| Quantity | 2 | 2 |
| Price IN ZMK | 310,000 | 350,000 |
| Add 16% VAT | Inclusive | inclusive |
| Grand total | 310,000 | 350,000 |
| Delivery Period | 4 weeks | 4 weeks |
| Terms of payment | 30 Days | COD |
| Ranking | 1 | 2 |

Source :( ZPPA, 2012)

Commercial Evaluation- comment

Bidder A is substantially responsive and the lowest evaluated bidder, and recommended for contract award

Substantial responsiveness means that a bidder conforms to all terms, conditions and specifications of the tender document and do not have any material deviation from the tender document.

Material deviation if accepted, will not fulfill the purpose for which the tender was invited or will prevent a fair comparison with bids that are properly compliant with the bidding document.

The evaluation report is completed by the evaluation committee after which it is presented to the procurement committee for consideration and makes the decision on the recommendations of the evaluation committee.

Signing of contract

After approval by the procurement committee, the successful bidder is notified by the procuring entity and thereafter the contract is signed by the CO/CEO or by any officer delegated by the CO/CEO. What follows then is the processing of the performance security, Advance payment guarantee. The copy of the contract is also sent to ZPPA

Contract Administration

Contract administration involves expediting, receipt of goods and or services and payment of the supplier after which the file is closed.

**PRINCIPLES IN BIDS EVALUATION**

The purpose of Bid evaluation is to;

* To determine the best evaluated substantially responsive bid among the bids submitted before the closing time.
* The best evaluated substantially responsive bid may not be necessarily the lowest priced bid
* To determine the best evaluated substantially responsive bid in accordance with the terms and conditions of the Bidding document, a logical systematic evaluation procedure designed to cover all aspects of the evaluation process should be followed.

There are certain principles that must be adhered to when conducting public procurement and these are;

1. Appointment of the Evaluation Committee
* The CEO/CO appoints the evaluation committee
* Must be adhoc
* Number of members shall not be less than three
* Members shall have skills, knowledge and experience relevant to the procurement requirement.
* Where internal capacity is lacking, a consultant may be appointed
* A person appointed to the evaluation committee shall not take part in the decision of the procurement Committee on that procurement decision.
1. Disclosure of interest.
* Or its absence, must be made by evaluation committee members- Section18 (2)(3) of regulation
1. Clarification and alteration of Bids
* No bidder shall be permitted to alter its bid after the bids have been opened.
* Only clarifications, which do not change the substance or price of the Bid of the Bid may be requested and accepted. Section 50 (4)
* Clarifications sought and received, during evaluation shall be in writing

**??? are there circumstances when the bid price may be changed during evaluation?**

1. Modification of Bid
* Bidders are allowed to submit, prior to bid opening, modifications to their original bid
* The impact of the modifications should be fully reflected in the examination and bids
1. Withdrawal of Bid
* A bidder is entitled to withdraw its bid prior to bid opening without forfeiting its bid Security
1. Rules for modifying and withdrawing bids shall be stated in the solicitation document.
2. Confidentiality of procedure
* No information relating to
* Examination,
* Clarification and
* evaluation of bids and recommendation concerning awards;

Shall be communicated to any person not officially concerned to these procedures until the announcement of the award of contract to the successful Bidder had been made. **Sect 40 and 75**

What information do you think can be disclosed following announcement of the award of contract to the successful bidder has been made?

* Who has won the contract.
* Why they lost
1. Evaluation should be done in accordance
* with the solicitation document
* Criteria for bid examination contained in the solicitation document
* Criteria not included in the solicitation document shall not be used.
1. Rejection of Bids
* All valid bids received shall be evaluated in accordance with the terms and conditions of the bidding document, and only those bids which do not substantially meet the specifications or the bidding requirements may be rejected
* Rejection of all bids is justified when the bids are not substantially responsive or where none of the bids meet the specifications or where there is evidence of lack of competition.

10 Extension of Bid validity period

* Ever effort should be made o complete bid evaluation and contract award before expiration of bid validity
* If an extension of Bid validity is necessary, all those who submitted bids shall be asked to extend the validity of their bids.
* Bidders who are willing to extend their the validity of their bids shall not be permitted to modify the substance or price of their bids
* They must, however, be required to extend the validity of their bid securities as well.
* The Bid securities of bidders who do not extend the validity of their bids shall be returned to them promptly.
1. The Bids evaluation must be;
* Fair
* Predictable
1. The Evaluation report must be prepared by the evaluation committee
2. Relevant approval authority makes the award decision. i.e Procurement Committee

**5.7 Best Practices**

* A well prepared solicitation document contributes to the success of an evaluation process and the entire procurement process generally.
* You should make sure that the scope of work, terms of reference and evaluation criteria are clearly presented
* Provide sufficient time for bidders to respond to the invitation to bid
* Request for clarifications must be responded to promptly

**5.8 Main Challenges**

* A poorly prepared document may lead to;
* Bidders not receiving clear and complete information and instructions
* Bidders not preparing their submissions properly
* Goods and services being overpriced to cover uncertainties in the solicitation document
* Well qualified bidders being disqualified during evaluation for failing to meet a technical requirement not clearly stated
* Protest from such bidders- further complicating and delaying the procurement process
* Procurement staff can only prepare the solicitation document promptly if they receive accurate and comprehensive information from the end user regarding the technical requirements of the procurement.

**5.1 Activity**

**Case Study Questions**

Transparency and accountability in public Procurement

The procurement Reform Commission in Sudan has amounted that to promote transparency procurement the Government will publish all important legal texts such as the public procurement law and implementing regulations, in the official Gazette.

**5.9 Tendering for Works**

Governments being the major spenders all over the world are involved in major infrastructure projects and under takes a lot Works Procurement.

Procurement of works involves

1. Construction or rehabilitation of;
* Buildings
* Roads and Bridges
* Water and sewerage facilities
* Other civil works
1. Installation of Plant and equipment

The Procedure in tendering of works in Government are;

* Government institution identifies the need
* Informs the Ministry of Transport, Works, Supply and Communication or RDA for Roads of their need
* Liaises with the Ministry of Transport, Works, Supply and Communication or RDA for in the preparation of Technical Specifications and Bill of Quantities
* Liaises with the Ministry of Transport, Works, Supply and Communication or RDA in the preparation of Solicitation Documents
* The Ministry of Transport, Works, Supply and Communication are the Custodian of Government property through the Buildings Department while the Road Development Agency ( RDA) is the Authority on the Roads.

In Parastatal companies, they usually have a technical department like estates and Property or Engineering department to which requests are sent for the preparation of technical specifications and the procedure follows as above.

**Procures in Tendering for works;**

* Invitation for Bids
* Site Visits
* Tender closing and opening of Bids
* Evaluation of Bids
* Contract award
* Contract signing
* Contract performance and payment

**Invitation to tender**

This will depend on the type of Tender whether it informal Tender or Formal Tender depending on the Value. That is Below K500,000 or Above K500,000, respectively.

The value will determine the procurement method to use which we have already discussed.

After the invitation is ready. It is then issued out to the prospective Bidders.

**Tendering period**

This is the period when the invitation is issued and the closing date of the Tender and it invoices the following:

* Site Visit
* Pre-tender meeting
* Clarification
* Addenda

The Site Visit can either be optional or mandatory and where it is undertaken, the objective is to;

* assess the site conditions
* Incorporate the resultant data into the Tender

**Tender Closing and Opening**

* Date, time and place of closing and opening
* Opened in public
* Attendance register
* Details to read out
* Tender opening report

**The details to read out are;**

* Name of the Bidder
* Total Bid Sum
* Contract completion period
* Bid security
* Withdrawal notification

**Evaluation of Bids**

The purpose of the evaluation of Bids is to determine the best evaluated Bidder and the following steps are followed;

* Preliminary evaluation
* Technical evaluation and
* Commercial evaluation

**The preliminary evaluation involves takes into account;**

* Eligibility
* Completeness
* Bid Security
* Bid Validity
* Site Visit
* Proof of having Bought the Tender Document

**Eligibility- you look at;**

* Certificate of incorporation/ registration
* Tax Clearance Certificate
* VAT if registered
* Registration with National Council for Construction

**Completeness of Bid you look at;**

* Missing pages in the Bill of Quantities
* Partial or Complete offer
* Bid Submission Form

**Bid security you look at;**

* Source- bank or insurance company
* Adequacy of amount
* Validity
* Format- This should be as given in the sample documents

**You may include other evaluation criteria such as;**

* Labour resource allocation
* Day rates for casual workers

**The technical evaluation includes;**

* Personnel
* Equipment
* Experience of both the firm and personnel in undertaking smilar works
* Financial Position of the company
* Work method and schedule

Commercial Evaluation takes into account;

* Rates
* Discount
* Correction of arithmetic errors
* Bid sum

**Contract Award involves**

* Best evaluated Bidder awarded the contract
* Authorization by the relevant person (CEO/ CO) or Procurement Committee

**Contract signing has the following steps;**

* Contract is signed
* Bidder submits performance Bond
* Procuring Entity releases Bid Security
* Advance payment paid to Contract after production of Advance payment Guarantee of equivalent amount. The normal practice is 20% of the contract sum
* Insurance Cover from the Contractor
* The you have the retention/ defect ;liability period usually one year after issuance of a completion Certificate

The Solicitation document for works is almost the same with that of goods except that under forms of Contract it has a letter of acceptance in addition to other documents. Then the technical specifications include drawings/ maps and Bill of quantities.

Technical Specifications

* It provides precise and clear standards on
1. Materials
2. Plant and
3. Workmanship
* Materials and Plant incorporated in the works must be new, unused and of the most recent Models
* Equivalency of standards
* Alternative technical proposals

**DRAWINGS**

* Shows details on the type and complexity of the works
* The drawing should be read in conjunction with the technical specification and Bill of Quantities

**BILL OF QUANTITIES**

Objectives

1. Provide information on quantities of works
2. Provide a priced Bill of Quantities for periodic valuation of works executed
* BOQ should be read in conjunction with the Technical specifications and drawings

**5.10 Summary**

Now that we are very confident with the tendering methods, we then proceed to look at evaluation of bids - goods, works and non-consulting services



Activity 5.2

1. Explain the tendering methods.

# Unit 6: Evaluation of Bids - Goods, Works and Non-Consulting Services

* 1. **Introduction**

Welcome to unit 6 of this module. In this unit we are going to look at Evaluation of Bids - Goods, Works and Non-Consulting Services

****

* 1. **Learning Outcome**

By the end of this unit you should be able to;

* explain the importance of the various states of an evaluation of bids.
* discuss fully and effectively in evaluation of bids.



**6.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

**6.4 Definitions**

* **Goods-** refers to tangible and moveable objects
* **Works-**refers to tangible and largely fixed or immovable assets
* **Services-**refers to any object of procurement which involves furnishing of labour, time or effort
* Consulting services-services of an advisory nature

**(1) Evaluation Procedure**

* The evaluation procedure in this presentation is generally adequate for an expeditious evaluation of bids to determine the lowest evaluated substantially respective bid
* Further, if strictly followed, it will provide fairness to all bidders as it will produce a transparent, fair and accurate outcome of the bidding
* There are $ stages in the bid evaluation process which should be followed in a legal sequence

**Stages in Bid Evaluation Process**

* Data collection
* Preliminary examination
* Detailed evaluation
1. Technical evaluation
2. Financial evaluation
3. Post qualification
* Preparation of evaluation report

**Data collection-**

* Before starting actual evaluation, collect all key information pertaining to the bidding so that it tis readily available and the evaluation process is kept in proper perspective
* Basic dad sheet
* Record of bid opening
* Any correspondence during the order

**Basic data sheet**

This should include the following information

* Tender title
* Tender number
* Estimated Cost or engineer’s estimate
* Date invitation for bids
* Method of procurement
* Bid closing date and time
* Bid opening date and time
* Number of bids received
* Bid validity expiry date
* Date for determining applicable exchange rates
* Exchange rate for evaluation

**Record of Bid Opening**

* The record of bid opening shall include:
* Identity of all bids received
* Bid prices including alternative bids if any
* Presence or absence of the requisite bid security
* All discounts offered, modifications and withdrawals
* The record of the bid opening should be signed by all persons responsible for bid opening
* Bidders present at the opening shall be required to sign the attendance sheet

**(2) Preliminary Examination**

* The purpose of this step is to examine whether the kids received are complete as required by the solicitation documents before further detailed evaluation
* The areas to be cover by the examination include:
* Whether required securities have been furnished or not
* Whether bid documents have been properly signed or not
* Whether a power of attorney for the authorized person has been submitted or not

**Preliminary examination**

* Areas to be covered
* Whether joint venture agreements, if required, are submitted or not
* Whether documents establishing the eligibility of qualification of a bidder with respect to its financial and technical capability to undertake the contract have been provided or not
* Whether bids are generally in order for further evaluation

**Table 6.1 : Preliminary examination**

|  |  |  |
| --- | --- | --- |
| **Examination criteria** | **Solicitation****Document****reference** | **Bidders** |
| **A** | **B** | **C** | **D** |
| **Bid security/Bid securing declaration** | **ITB Clause** | **Y** | **Y** | **Y** | **Y** |
| **Legal status (certificate of incorporation)** | **ITB Clause** | **Y** | **Y** | **Y** | **Y** |
| **Eligibility (e.g. registration with NCC)** | **ITB Clause** | **Y** | **Y** | **Y** | **Y** |
| **Bid from signed** | **ITB Clause** | **Y** | **Y** | **Y** | **Y** |
| **Power of attorney**  | **ITB Clause** | **Y** | **Y** | **N** | **Y** |
| **Joint venture** | **ITB Clause** | **Y** | **N** | **Y** | **Y** |
| **Responsiveness** | **Yes** | **No** | **No** | **Yes** |
| Key: Y- yes N- No Yes- responsiveness No- Not responsive  |

**Source: (ZPPA, 2012)**

**From the preliminary examination Table**

**Comments from the table**

* Bidder’B’ stated that its offer was a joint venture between Company 1 and 2. However, it did not submit a copy of the joint venture agreement. The bidder was therefore non-responsive.
* Bidder ‘C’ did not submit power of attorney to confirm that the person who has signed the bid is duly authorized to do so by the company. The bidder was therefore non-responsive
* Bidder ‘A’ and ‘D’ complied with all requirements and were responsive

A bid not meeting the preliminary examination criteria as set in the solicitation document shall be rejected and shall not proceed to the next stage of evaluation

1. **Technical Evaluation**
* All bids must be checked for substantial responsiveness to the technical requirements of the bidding documents
* Factors to consider may include;-
* Conformity to specifications, standards, drawing
* Understanding of assignment or scope of works as demonstrated by the methodology or design submitted by a bidder
* If a bid contains material deviations or omissions, it shall be rejected

**Technical evaluation**

* Material deviations/omissions which are justifiable grounds for rejections of a bid during the technical evaluation include:
* Failure to bid for the required scope of work ( e.g. for the entire works on complete package ) 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 those specified, equipment not able to perform the basic functions for which it is intended)

**Technical Evaluation:-**

**Alternative Bids**

* If alternative bids are acceptable, the solicitation documents should specify the methodology of evaluating them
* Participants to discuss two methods of evaluating alternative bids
* Where solicitation documents are silent in respect of alternative bids, often some bidders submit alternative bids in addition to the main bids. In such a case, bid evaluation should be among main bids only to determine the lowest evaluated bidder.

**Methods of evaluating alternative bids (guiding answers)**

**Alternative bids**

* Where it is anticipated that bidders are able to offer bids which do not conform precisely to the statement or requirements, but which meet the objectives of the procurement in an alternative manner
* In areas of rapidly changing technology and the procuring entity wishes to encourage cost efficient and technologically innovative approaches by bidders
* Where a need can be satisfied in a number of different ways

**Table 6.1 Technical Evaluation**

|  |  |  |
| --- | --- | --- |
| **Examination criteria****(motor vehicles)** | **Solicitation****Document****Reference** | **Bidders** |
|  |  | **A** | **B** | **C** | **D** |
| **Body type(station wagon 5 doors)** | **Section** | **Y** | **Y** | **Y** | **Y** |
| **Drive system(4 wheel drive, right hand drive)** |  | **Y** | **Y** | **Y** | **Y** |
| **Engine displacement(2.8cc – 3.8cc diesel)** |  | **Y** | **Y** | **Y** | **N** |
| **Transmission type(5 speed manual)** |  | **Y** | **Y** | **Y** | **Y** |
| **Fuel tank capacity(70 litres minimum)** |  | **Y** | **Y** | **Y** | **Y** |
| **Sitting capacity(five persons minimum)** |  | **Y** | **Y** | **Y** | **Y** |
| **Breaking system(ABS)** |  | **Y** | **Y** | **N** | **Y** |
| **Power stearing,power windows** |  | **Y** | **Y** | **Y** | **Y** |
| **Airbag(minimum driver and passenger)** |  | **Y** | **Y** | **Y** | **Y** |
| **Air conditioned** |  | **Y** | **Y** | **Y** | **Y** |
| **Responsiveness** |  | **Yes** | **Yes** | **No** | **No** |

**Source (ZPPA, 2012)**

**Comments from the table**

* The vehicle offered by bidder ‘c’ did not have ABS breaking system. The bidder was therefore non-responsive.
* Bidder ‘D’ offered a vehicle with an engine displacement of 2.6cc instead of the acceptable range of 2.8cc – 3.8cc. in addition, the bidder did not state whether or not the vehicle offered has ABS breaking system. The bidder was therefore non-responsive.
* Bidders ’A’ and ‘B’ complied with all the specifications and were responsive.

**Financial Evaluation and Comparison of Bids**

* The purpose of this step is to determine the evaluation price of each bid and determine the lowest priced bid
* The evaluated price is determined by:
* Taking price as read out at the bid opening
* Correcting any arithmetical errors, non conformities and omissions
* Applying any non-conditional discounts
* Converting all bids to single currency
* Applying any margin of preference

**Correction of errors, non-conformities and omissions**

* An evaluation committee may waive, clarify or correct any error, non-conformity or omission which does not constitute a material deviation
* Arithmetical errors shall be corrected as follows:-
* Where there is discrepancy between the amounts in figures and in words, the amount in words will govern
* Where there is discrepancy between until rate and line item total resulting form multiplying the unit rate by the quantity, the unit rate will govern, unless……( see ITB Clause 27.1 (b) )

Non-conformities, omissions and errors shall be corrected as follows:

* An evaluation committee shall qualify the error, non-conformities or omission in monetary terms to the extent possible and take it into account in the evaluation and comparison of bids
* The cost of minor omissions or missing items shall be added to the bid price to allow for bid comparison on an equal basis. The price adjustment should be based on a reasonable estimate of the cost by the evaluation committee, taking into consideration the corresponding quoted price form other bids.
* The bidder shall be notified and requested to agree to any correction, in writing.
* A bidder who does not accept the correction shall be rejected and its bid security forfeited

**Application of Discounts**

* An evaluation committee shall take into account a discount included in the bid and read out at bid opening
* A discount offered after the deadline for the submission of bids shall be considered
* Only non-conditional discounts shall be considered
* Any prompt payment discount included in a bid shall become a term of the contract, if that bid is accepted and shall be utilized if payment is made promptly
* A prompt payment discount shall not be considered in the evaluation and comparison of bids.

**Conversion to single currency**

* For bid evaluation and comparison purpose, all bid prices shall be converted into a single currency, using the selling exchange rates on the date specified in the bidding documents

**Application of margin of preference**

* Preference for citizen bidders-
* Has its objective the development of business owned by citizens
* It gives such businesses competitive advantages by deducting a specified margin to the evaluated price of bidders who are eligible during the financial evaluation bids
* The following margins may be applied
* Citizen influenced by company 4%
* Citizen empowered company 8%
* Citizen owned company 12%

**Application of margin of preference**

* Preference for domestically manufactured goods-
* Has its objective the development of manufacturing industry in Zambia
* It gives bids offering goods manufactured, mined, extracted or grown in Zambia a competitive advantage by deducing a specified margin to the evaluated of eligible bids during the financial evaluation
* The margin of preference is 15%
* The nationality of the bidder is not a condition for its bid to qualify for preference for domestically manufactured goods
* The details of applicable margins of preference shall be stated in the solicitation document, with a summary provided in the bid or pre-qualification notice

**Analysis of bill of Quantities and Unit Rates (Works Tenders)**

* The analysis of the bill of quantities and unite rates of a bid is carried out for the following purpose:
* **To examine whether the unit rates of the bids are balanced**
* A bid is considered unbalanced if the unit rates are sustainably higher, in relation to the estimated and those quoted by other bidders, for items of work to be performed early in the contract or for underestimated quantities for certain items of work
* **To verify whether the bid price is reasonable**
* An unreasonably low bid price ay reflect the bidder’s misunderstanding of the specifications and, accordingly, this bidder may incur substantial losses and fail to complete the work satisfactorily if awarded the contract
* To determine the reasonableness of a bid price, it is necessary to consider all circumstances affecting the bid
* A bid should not be rejected solely because the bid price exceeds or is lower by certain percentage of the estimate

**To verify whether the bill of quantities is complete**

* Solicitation document usually contain a provision that the cost of items against which the bidder has failed to enter a price shall be deemed to be covered by other prices entered in the bill of quantities
* Accordingly, there should be no adjustments for missing items in the bill of quantities
* If however, a bidder does not quote a price for one complete bill, price adjustment should be made for the missing bill, unless the missing bill is for a major component of the works, in which case, the bid should be rejected

**Activity 6.1**

Discuss the most appropriate logical sequence of activities among the activities to be performed during the financial evaluation and Comparison of bids.

* Following the financial evaluation, bids shall then be ranked to determine the bidder with the lowest evaluated price

**Post-Qualification**

* The successful bidder must be qualified to perform the contract. Post-qualification is conducted to determine whether the bidder with the lowest evaluated price is so qualified
* If bidders were pre-qualified prior to bidding , then a verification is made to determine that the lowest evaluated bidder still satisfies the qualifying requirements specified for pre-qualifying
* A positive determination shall result in award of contract to the bidder. A negative determination shall result in rejection of the bid; in which event you proceed to the next lowest evaluated bid to make a similar determination of the bidder’s capability
* Criteria for post and pre-qualified includes:-
* Qualification and experience of key staff
* Availability of equipment
* Manufacturing or construction facilities and their capacity taking into consideration other commitments
* Manufacturers’ authorization to supply if bidder is not a manufacture
* Financial position
* Experience and satisfactory performance in similar contracts

**Material Deviation, Reservation or Omission**

* A substantially responsive bid is one which conforms to all instructions, terms and conditions of the solicitation document, without any material deviation, reservation and omission
* A material deviation, reservation or omission, is one that-
* Affects in substantial way, the scope, the scope, quality or performance of the goods, works or services
* Would limit in any way the procuring entity’s rights or bidders’ obligations under any resulting contract
* If corrects, would unfairly correct the competitive position of other bidders presenting substantially responsive and compliant bids
* A bid which contains a material deviation, reservation or omissions shall be rejected and may not subsequently be made responsive by the bidder or the procuring entity
* The classification of a deviated, reservation or omission as material or non-material shall be determined by the objectives and requirements of the individual procurement and shall take into account the impacted on key factors such as cost, risk, time and equality
* The classification of deviation and omissions as material or non-material shall be consistently applied to all bids

**Critical provisions of the solicitation document where deviation is considered material:**

* Bid security
* Applicable law
* Taxes and duties
* Defect liability
* Functional guarantees
* Patient identity
* Limitation of liability
* Dispute resolution procedures

Examples of Major deviations

* Stipulation of price adjustment when fixed price bids were invited
* Non-responsive to technical specifications by offering a different design or product that does not offer substantial equivalence in critical performance
* Not conforming to critical dates ( delivery, installation, construction schedule )
* Subcontracting in substantially different amount and manner than permitted
* Refusing to hear important responsibilities and liabilities allocated in the solicitation document ; e.g. performance guarantees, insurance cover
* Bids whose price exceed available budget

**Due Diligence**

* Definitions
* An investigation or audit of a potential investment. Due diligence serves to confirm all material facts in regards to a sale or any transaction
* Generally, due diligence refers to the care a reasonable person should take before entering in to an other agreement or transaction with another party
* It may be costly to perform due diligence, but its certainly worth the trouble
* Areas where due diligence may be necessary
* 1
* 2
* 3
* 4
* (for discussion)

**Preparation of Bid Evaluation Report**

* A bid evaluation report with award recommendation must be prepared by the evaluation committee
* The bid evaluation report should reflect the logical sequence of the bid evaluation process

**Outline of bid evaluation report**

1. **Introduction**
	1. general-summary of project, source of funds
	2. method and procedure of procurement
	3. advertisement
	4. pre-bid meeting and amendment of solicitation document
	5. deadline for submission of bids
	6. bid opening
	7. Evaluation committee
2. **preliminary examination**
3. **detailed evaluation**
	1. technical evaluation
	2. financial evaluation
	3. other conditions
* completion/delivery time
* after sales service
* terms of payment
1. **post Qualifications**
2. **recommendation for award of contract**
* **Bid Evaluation Report Checklist**
* attach complete bid opening record
* explain any inconsistence between prices read out at bid opening (and written into the record) and the evaluate price
* provide details on eliminating and bid during preliminary examination and detailed evaluation
* provide a copy of the exchange rates used
* the additions, adjustments, and priced deviations require detailed explanations where they affect the ranking of bidders
* Eligibility for domestic preference must be verified if the ranking of bids is affected
* Provide detailed reasons for not recommending award to a party other than the lowest evaluated bidder
* If an alternative bid is accepted, provide a detailed explanation for the reasons for its acceptance, addressing issues of timeless, performance, and cost implications
* Attach copies of any correspondence between the bidder and the evaluation committee.
* All members of the evaluation committee should sign against their names on the evaluation report
* Ensure that the bid evaluation report is double-checked, paginated, and complete

**ASSIGNMENT NO. 1**

The Zambia Business Foundation is a government Parastatal recently established to spear head investment opportunities for the local small and medium entrepreneurs. In an effort to expand its operations and reach out to rural arrears, ZBF invited shortlisted consultants to submit proposals to develop loan recovery strategies and network structures that would be effective and responsive to the needs of the people.

The following assumptions are given;

1. **Mulungushi Zambia Business Associates**

Technical Score: 70

Financial score: K200, 000

1. **Chawama Financial Consultants**

Technical Score: 90

Financial score: K250, 000

1. **Milandu and Partners**

Technical Score: 80

Financial score: K220, 000

1. **Lima Consultancy**

Technical Score: 72

Financial score: K180, 000

1. Ndola Centre for Poverty

Technical Score: 60

Financial score: K160, 000

Other details include:

Minimum technical qualifying mark 70

Method of selection Quality and Cost Based selection

Technical Score contributed 80% to the overall marks

Financial Score contributes 205 to the overall mark

**Required**

Prepare an evaluation Report clearly stating which consultant you would recommend and why? [Total mark 10]

**Procurement of Consulting Services**

Consulting services are services of an intellectual and advisory nature provided by consultants using their professional skills to;

* Study
* Design
* Orgainise specific projects
* Advise clients
* Conduct training and;
* Transfer knowledge

SCOPE AND COVERAGE OF CONSULTING SERVICES

Consulting services covers pre investment studies, preparatory services, implementing services and technical assistance.

1. **Pre- Investment Studies**

This involves investigations which precedes decisions to proceed with specific investment i.e

* Chinise phone manufacturing project.
* Sectoral studies
* Feasibility studies
* Marketing
1. **Preparatory Services**

This covers engineering, economic or other work required to fully define a project and prepare it for implementation e.g design of Kariba Dam

* Design something
* Detailed engineering
* Preparation of bidding documents
1. **Implementation Services**

This involves construction works supervision and project management, inspection, expediting and so on i.e

* Supervision of road construction
* Procurement monitoring
1. **Technical Assistance**

This involves advisory and support services, capacity building, staffing requirements, training studies and implementation of study recommendations. Examples include;

* Crown Agents
* Institutional support
* Management advise and
* Training

At times we may ask ourselves as it why we should engage a consultant. There are many reasons why this is so and they include;

* Consultants offer a more efficient allocation of resources by providing specialized services for a limited time without obligation of permanent employment
* Consultants transfer skills and upgrade the knowledge base of their clients while executing the assignment
* Consultant can offer independent advise to their clients on the most suitable approaches, methodologies and solutions for their projects
* Consultants confirm an already known or existing fact

**Types of Consultants**

* Engineering firms
* Financial and Management firms
* Universities and research institutions
* Non Governmental organizations
* Procurement Agents
* Auditors
* Individuals
* Inspection Agents
* Consulting firms
* Management firms

**Selection Methods**

There are six methods that are used in procuring of consulting services and these are

1. Quality and Cost Based Selection (QCBS)
2. Quality Based Selection (QBS)
3. Least Cost Selection (LCS)
4. Selection Based on Consultants Qualification (CQ)
5. Selection under a Fixed Budget (FB) and;
6. Single Source Selection (SSS)
7. Quality and Cost Based Selection (QCBS)

This is based on the quality and services being offered and is appropriated for;

* Preparation of bidding documents and design
* Supervision of construction works
* Quality Based Selection (QBS)

It uses the two envelope system and evaluation is carried pout in two stages namely **Quality and Cost.**

1. **Quality Based Selection (QBS)**

This method is suitable for highly complex and specialized assignment. For example feasibility studies and design of complex projects and were the terms of reference are difficult to define precisely;

* Assignment has high downstream impact
* Proposal are not comparable e.g assignment can be done in different ways based on the quality of the proposals
* The technical proposal invited first, then
* Evaluate technical proposal using the same method under QCBS
* Invite consultant with highest scoring technical proposal for negotiation of financial proposal and contract
1. **Least Cost selection method (LCS)**

This method is appropriate for assignments of routine nature. For example Audits and supervision of simple projects. The procedure of undertaking this method is as follows;

* Minimum qualifying mark for quality is set
* Consultants are requested to submit proposals in two envelopes
* Then technical proposals are opened first and evaluated as in Quality and Cost Based Selection (QCBS)
* Financial proposals for Consultants scoring above minimum mark opened
* Consultant with lowest price selected
1. **Selection under a Fixed Budget**

This method is used were the Budget is fixed and the procedure is;

* The available Budget is disclosed to invited Consultants in the Request For proposals
* Technical Evaluation is carried out
* The Consultant with the highest rank Technical Proposal within Budget is selected.
1. **Selection Based on Consultant’s Qualification (CQ)**

This method is based on the qualification of the Consultant and this is appropriate where the skills of the Consultant are very critical in the project to be undertaken. The following procedure is followed;

* Terms of Reference TOR) is prepared
* Expression of interest and Qualification information is evaluated
* Consultant with best Qualification is selected
* The Consultant selected is requested to submit Technical and Financial proposal
* The proposal is negotiated and award of contract
1. **Single Source Selection (SSS)**

This is the method where only one source is considered and is acceptable when;

* Assignment is a continuation of previous one awarded competitively
* A quick selection is essential e.g in emergency
* Only one consultant has qualification and experience
* Where there is no completion.

Under this method the consultant is requested to submit a combined technical and Financial proposal which is late negotiated and contract awarded.

**The Selection Process**

The following is the process that is used when procuring consulting services;

* The user identifies the need
* Preparation of TOR
* Advertise for Expression of Interest
* Preparation of Short list of Consultants and Evaluation Report which is sent to the appropriate authorizing Body for approval
* Preparation of issuance of RFP
* Invite Proposals from the approved list of the shortlisted consultants
* Receipt of the Proposals
* Evaluation of the proposals and selection of the consultant
* Negotiation and
* Contract award and signing

**Terms of Reference (TOR)**

The TOR normally contains the following information;

* A precise statement of the objectives of the assignment
* The scope and timing of the required services
* The inputs to be provided by the employer
* Particulars of the outputs required of the consultants e.g Reports, Drawings etc.

Cost estimate and budget.

This is estimated from the TOR that is;

* Staff
* Time
* Logistical support needed
* Vehicles and equipment required for the assignment
* The cost is dived into two broad categories Fees or remuneration and reimbursable and further to broken down into foreign and local costs.

Preparation of shortlist

Prepare shortlist of 3-7 forms through either of the following:

* Draw from the list of registrations maintained by professional bodies of members.
* Invite an expression of interests

Invitation for Expression of Interest:

This invitation shall solicit for:-

* Expression of interest from eligible firms
* Information on relevant experience
* Qualification and experience of individuals; and
* Financial standing of the firm
* Receive expression of interest
* Evaluate Expression of interest
* Shortlist 3-6 firms

**Key Areas When Evaluating Expression of Interest**

* Understanding of the terms of Reference
* Core business of the firm
* Managerial and technical capabilities
* Similar assignment undertaken
* Evaluation by “pass” or “fail” system

Table 6.3: Criteria for Consultant

|  |  |  |
| --- | --- | --- |
| **No** | CRITERIA |  CONSULTANT  |
| 1 | 2 | 3 | 4 |
| 1 | Understanding | Y | Y | N | Y |
| 2 | Qualification of key staff | Y | Y | Y | Y |
| 3 | Similar assignment | Y | Y | Y | Y |
| 4 | Core business and years in business | Y | Y | Y | Y |
| 5 | Technical and managerial capability | Y | Y | Y | Y |
| 6 | Client reference | Y | Y | Y | Y |

 Source :( ZPPA, 2012)

**KEY**

N = No Y = Yes

R = Responsive

NR = Non Responsive

**Comment**

The comment given by the consultant 3 were not related to the field assignment and therefore deemed non responsive.

**Preparation of Request for Proposal**

The standard RFP document includes:

* Letter of invitation( LOI )
* States intention of the client to enter into a contract for the provision of consulting services, the source of funds, details of the client of the client and date, time and address for submission of proposals.
* Information to consultants( ITC )
* Helps consultants prepare responsive proposals
* Evaluation criteria and factors
* Weights and minimum passing technical score
* Technical Proposal – standard forms
* Financial Proposal – standard forms
* Terms of reference
* Standard forms of contracts

**Invitation of Proposal**

* RFP sent only to shortlisted consultants

**Receipt of Proposals**

* Enough time is allowed for the preparation of proposals

**Preparation of Request for Proposal**

The standard RFP document includes:

* Letter of invitation( LOI )

States intention of the client to enter into a contract for the provision of consulting services, the source of funds, details of the client of the client and date, time and address for submission of proposals.

* Information to consultants( ITC )
* Helps consultants prepare responsive proposals
* Evaluation criteria and factors
* Weights and minimum passing technical score
* Technical Proposal – standard forms
* Financial Proposal – standard forms
* Terms of reference
* Standard forms of contracts

**Invitation of Proposal**

* RFP sent only to shortlisted consultants

**Receipt of Proposals**

* Enough time is allowed for the preparation of proposals
* Time allowed depends on nature and complexity
* Normally not less than four weeks
* Clarification sought during this time
* Clarifications copied to all shortlisted
* Tender box
* Two-envelop system
* Technical proposal read out
* Financial proposal retained unopened

**Evaluation of Proposal**

**Evaluation of Proposal (QCBS)**

* Preliminary Evaluation
* Technical Evaluation
* Combination Technical and Financial Evaluation
* Appropriate for:
* Preparation of bidding documents and design
* Supervision of construction works
* Two envelops system
* Evaluation carried out in two stages:-
* Quality
* Cost
* Two Stages
* Quality ( technical )
* Financial ( cost )
* Evaluation of technical proposal have no access to financial proposal until technical evaluation are concluded.
* Evaluation to fully conform to provisions of RFP

**Preliminary evaluation**

* Bid validity
* Site visit
* Power of attorney
* Bid form
* Litigation Status
* Eligibility

Evaluation of Quality

* Constitution of evaluation committee ( 3 or more specialists in the sector )
* Evaluation based on :
* Consultant’s relevant experience
* Quality of the methodology
* Qualification of proposed key staff
* Transfer of knowledge
* Local participation among key staff
* Each criteria shall be marked on a scale of 1 to 10
* The marks shall be weighed to become scores
* The proposal weights shall be disclosed In the RFP
* The following is indicative and can be tailored to specific projects

Table 6.3: Criterion used

|  |  |
| --- | --- |
|  **CRITERION** | **POINTS** |
| Specific experience ( i.e related to the assignment) | 5 TO 10 |
| Adequacy of proposed work plan and methodology in responsive to TOR | 20 TO 50 |
| Qualification and company of key staff for the assignment  | 30 TO 60  |
| Transfer of knowledge  | 0 TO 10 |
| Local participation | 0 TO 10 |
| **TOTAL** | **100** |

Proposal that scores above minimum qualities for qualifies for financial evaluation

* Above criteria shall be divided into sub divided, e.g. methodology may be divided into innovation; level of details.
* Avoid too much detailed list of sub-divided criteria.
* Experience should be given modest weight since already considered at short listing stage
* Methodology should be given more weight in more complex assignments e.g. multidisciplinary feasibility or management studies
* Evaluation of key staff recommended
* Key staff determine quality and performance
* More weight should be given if assignment is complex
* Review qualifications and experience of key staff using their C.V.s.
* C.V.s should be signed by authorized official of the consultant.
* The individual shall be evaluated using the sub-criteria as follows:
* General qualification; general qualifications and training, length of experience, time with firm, experience in developing countries.
* Adequacy for assignment: education, training, experience in the specific sector, field relevant to the assignment
* Experience in the region: knowledge of local language, administrative system, organization etc.
* Reject if does not respond to important aspects of TOR.

**Opening of Financial proposal**

* Inform consultants whose proposals did not meet the minimum qualifying mark or were not responsive to TOR.
* Return financial proposals unopened to non-responsive consultants.
* Inform qualified consultants and indicate date, time and place for opening financial proposals
* Financial proposals opened in public.

**Evaluation of Cost**

* Review proposals and correct arithmetical errors
* Convert to single currency stated in RFP.
* Use selling exchange rate of an official source (BOZ)
* Cost shall exclude local taxes but shall include reimbursable costs such as travel, translation etc
* The proposal with the lowest cost shall be given a score of 100
* Other proposal shall be given scores inversely proportional to their prices

Sf=100xFm

 **F**

Where F = amount of financial proposal under consideration (common Currency )

Fm = lowest financial proposal

Sf = Financial score

**Combined Evaluation of Quality and Cost**

* The combined score shall be determined as follows:

S = (st x T) + (sf x P)

Where s = combined score

 **St =** technical score

 **Sf =** financial score

 **T** = weight given to technical proposal ( 80 )

 **P =** weight given to financial proposal (20)

T + P = 1

* Rank proposals based on the sum of technical score
* Select the highest scoring proposal
* Obtain Tender committee approval
* Invite for negotiations
* Award contract

**Negotiations**

* Obtain tender Committee approval to negotiate
* Negotiations shall include discussions on the following:
* Terms of reference
* Technical approach and methodology
* Work plan and activity schedule
* Organization and staffing
* Reimbursable expenses
* Rates (of late)

**6.6 Summary**

Once more congratulations, I commend you for reaching this far, let us continue with the good work that we are doing, I am confident that it will reach very far. All we need to do is to explain the importance of the various states of an evaluation of bidsanddiscuss fully and effectively in evaluation of bids



**Activity 6.1**

1. Explain the importance of the various states of an evaluation of bids.
2. Discuss fully and effectively in evaluation of bids.

# Chapter 7: Public procurement and Politics

**7.1 Introduction**

Congratulation for reaching this far, give a pat on your back. At this particular juncture we are going to look closely at the use of public procurement for political purposes.



**7.2 Learning Outcome**

* explain public procurement for political purposes.



**7.3 Time Frame**:

You will cover the following time;

* 2 hour 30 minutes’ study time
* 2 hours in class

**Use of Public Procurement for Political Purposes**

The use of public procurement for political purposes embraces a wide range of activities. At one extreme there is illegal award of contract in return for money. At the other extreme is the argument that procurement decisions should be made solely on commercial considerations, and should not be distorted by social or economic considerations un connected to the procurement.In between these two extremes**,** there are a range of policies and practices relating to among others;

1. Supporting local or national suppliers
2. Set asides for particular regions or category of suppliers
3. Ensuring reasonable wages levels and terms and conditions of employment
4. Favouring minority owned businesses
5. Sustainability
6. Small and medium Size Enterprises (SMEs)
7. Industrial Policy i.e Ship Building, defense industry, Dam construction. Road construction

The political importance of public procurement was reflected in its contribution to industrial policy (Williams & Smellie 1985) and to defense contracting (Hartley 1986: Hartley and Hooper 1987). Turpin (1989:263) identified the tension in public procurement objective in this context in which he observed that” Value for Money in contracting for defense equipment, for instance, masks the tension between ”Obtaining equipment of the right sort and at a reasonable price” and what may be seen as a larger benefits to be gained from “ International Collaboration of the maintenance of a “defense industrial base” these later goals being themselves sometimes perceived as conflicting.”

The perceived failures of public procurement in these areas has produced a literature on the economics of forms of contract with criticism of the cost plus contracts traditionally used. Such, practices, whilst clearly wasteful from a competitive perspective, may be quite rational if the objective is to use taxpayers’ money to sustain jobs and protect national champions. There is, however, evidence that the effect of such cosy relationships over a lengthy period of time is the decline in the competitiveness of the companies reliant on government Contracts.

**Assignment No. 1**

Identify and assess arguments for and against the use of procurement for political purposes.

Arguments for the political use of Procurement include:

* Governments are democratically elected and therefore may legimately use public procurement expenditure to pursue their policies.
* The increasing value and scope of public procurement dictates that governments must seek to achieve wide goals alongside commercial criteria.
* Award of business to national champions or to disadvantaged regions is in the national interest.
* Most other countries even the EU, do not “play the rules” so why should we?

Arguments against the political use procurement include;

* Favouring national or local suppliers distorts competition and results in uncompetitive supply and lack of value for money
* Discrimination against non- national suppliers is illegal under the EU Directives and could result in the suspension of the contract and severe financial penalties
* Using public procurement contracts to “buy votes” at national or local elections is an abuse of the democratic system
* If we do not follow the rules, neither will other countries, and global free trade would be threatened

Arguments should be assesses for their internal coherence and validity, balanced against the opposing arguments, and a balanced conclusion reached reflecting the overall weight of argument.

7.8 Summary

Wow!! We have reached the end of the unit. Let us congratulate ourselves.

**Activity 7.1 Assignment No. 2**

Examine the extent to which it is possible and desirable to develop closer relationships with suppliers within a culture which emphasizes probity, transparency and competition.

Due date: April 3, 2020

Font: Times New Roman

Font Size: 12

Spacing: 1.5

Number of pages: 8-10

**References**

1. Zambia Public Procurement Act (2012).
2. Public Procurement Handbook (2016).