

Department of Contracts
Notre Dame Ravelin
Floriana

2nd March 2000

To Heads of Department
and Parastatal Bodies

Re: Three-Package Tendering Procedure

Heads of Department and Parastatal Bodies are requested to note that the three-package tendering procedure stipulated in Clause 13 and the Eighth Schedule of the Public Service (Procurement) Regulations is being re-introduced as from 15th March 2000. This means that, as from that date, all calls for tenders in respect of contracts estimated to cost Lm250,000 and over shall be issued and adjudicated in line with this procedure.

Procurement officers in Departments and Parastatal Bodies are, therefore, to ensure that relative tender documents are to include appropriate instructions to prospective bidders. Moreover in all such calls for tenders the submission of a Bid Bond by bidders shall be mandatory. The value of a Bid Bond shall not exceed 3% of the estimated contract value but should never be less than 2.5% of the same estimate with the total being rounded to the nearest thousand.

It is to be noted that since Parastatal Bodies (example EneMalta Corporation, Water Services Corporation, etc) do not have their calls for tenders published by the Department of Contracts, full responsibility for ensuring that their relative tender documents are correct shall rest with them since my Department will not be in a position to check such documents before publishing.

To assist Procurement Officers in the preparation of tender documents in line with the three-package procedure and to ensure uniformity of presentation I am enclosing with this Circular the following:

1. a clause informing tenderers about the three-package rules governing the call for tender.
2. a standard Bid Bond form
3. Bid Bond clause to be included under "Instructions to Tenderers".

4. a copy of the Eighth Schedule of the Public Service (Procurement) Regulations 1996, which schedule is to form part of the tender document.
5. Standard clauses explaining to bidders how to submit their tender.
6. A standard clause concerning the submission of samples (where applicable). In this regard procurement officers have to certify the receipt at their Department or Corporation of all the samples requested with tender document by the closing time and date of the call for tenders and have to fax this certification to the Department of Contracts (Fax No. 247681) immediately after the closing time. **It is to be noted that samples are not to be accepted after the closing time.** In order to ensure that bidders are fully aware of what is required from them the tender document shall, when applicable, include a detailed list of all the samples required and the number thereof as well as the specific literature and guarantees (of materials or equipment) which have to be submitted with the tender.

I hope that the above will be of help to all officers concerned who, in case of difficulty, may seek assistance from my Department.

Your kind co-operation should ensure that the re-introduction of this procedure will be carried out smoothly and efficiently so that we would ensure that Government projects are not delayed.

J V Spiteri
Director General (Contracts)

encls

Tenderers are requested to note that this call for tenders is being published and adjudicated in accordance with the Eighth Schedule of the Public Service (Procurement) Regulations, 1996. A copy of this schedule is being included with this tender document.

The attention of all tenderers is drawn to the need of ensuring full compliance with the instructions issued with this tender document.

(Note: This clause is to be included under “Instructions to Tenderers”.)

Bid Bond

Whereas the Director of Contracts has invited tenders for
 and whereas Messrs
 (Name of tenderer) (hereinafter referred to as the Tenderer) is submitting such a tender in accordance with such invitation. We (Name of Bank) hereby guarantee to pay you on your first demand in writing a maximum sum of in case the Tenderer withdraws his tender before the expiry date or in case the Tenderer fails to provide the Performance Bond, if called upon to do so in accordance with the Conditions of Contract.

This guarantee becomes payable on your first demand and it shall not be incumbent upon us to verify whether such demand is justified.

This guarantee expires within three (3) calendar months starting on the closing date of tender, that is, it is valid for three (3) months from the closing date of this tender at the close of business, and unless it is extended by us or returned to us for cancellation before that date, any demand made by you for payment must be received at this office in writing not later than the above mentioned expiry date.

This document should be returned to us for cancellation on utilisation or expiry or in the event of the guarantee being no longer required.

After the expiry date and in the absence of a written demand being received by us before such expiry date, this guarantee shall be null and void, whether returned to us for cancellation or not, and our liability shall terminate.

Yours faithfully

Bank Manager

Countersigned by Tenderer

Date: _____

Note: Procurement Officers are to ensure that the validity period of the Bid Bond tallies with the validity period of the actual tender as stated in the Form of Tender. The Tender validity period should cater for the complexity of each particular call for tenders but should never exceed six (6) months

Each Tender must be accompanied by a valid and original Bid Bond issued by a Maltese Bank to the amount of, in the form of the attached specimen Bid Bond. This Bid Bond must be valid for a period of three (3) calendar months from the date set for submission of tender. This Bid Bond is intended as a pledge that the Tenderer will enter into a contract with the Director of Contracts on the terms stated in his Tender and will furnish a Performance Bond (as per specimen attached to the Tender Documents) covering the faithful performance of the Contract and the payment of all obligations arising hereunder. The Bid Bond shall be forfeited if the Tenderer withdraws his tender before the stipulated period of three (3) months or if the Tenderer fails to provide the Performance Bond within seven (7) days of the receipt of the Letter of Acceptance.

The Director of Contracts shall have the right to retain the Bid Bond of Tenderers until either (a) the Contract has been placed and Performance Bond has been furnished or (b) the specified tender validity period has elapsed so that Tenders may be withdrawn or (c) Tenders have been rejected.

Offers, which on the closing time and date fixed for the submission of the tender, are not accompanied by the mandatory Bid Bond, will be disqualified.

Note: Procurement Officers are to ensure that the validity period of the Bid Bond tallies with the validity period of the actual tender as stated in the Form of Tender. The Tender validity period should cater for the complexity of each particular call for tenders but should never exceed six (6) months

B 824

EIGHTH SCHEDULE

(Regulation 13)

Separate packages in tender offer

The Director of Contracts shall, on all tenders with an estimated value of over Lm250,000 or, at his discretion, on tenders of a lower value,

1. direct that one of the tender conditions provides that bid offers shall only qualify for consideration provided they include in separate packages:
 - i. Guarantees required by the tender, duly executed;
Adequate information and certifications regarding the tender;
and
Terms of delivery and execution.
 - ii Technical specifications.
 - iii Financial consideration including the price for schedule of the bills of quantity, financing arrangements and terms of payment.
2. In the process of adjudicating the tender, the packages for all tenderers shall be opened in public and in the sequence enumerated above. When, at any stage, any tenderer fails to comply with the tender specifications, the remaining packages in his tender offer are to be discarded unopened.
3. Any discarded tender is to be given publicity in the Department of Contracts and the affected tenderer is to be informed of the decision within two working days of its publication.
4. A request for a review by the affected tenderer must reach the Director within three working days from the date of publication of the decision and such request must be accompanied by a deposit of 0.5% of the estimated tender value, which deposit shall only be refundable if the Director of Contracts finds in the tenderer's favour:

Provided that the deposit shall in no case be less than Lm250 or more than Lm25,000.

The Tenderer shall submit the following documents with his Tender all completed where required and signed in three separate envelopes so marked i.e.

- **Envelope No. 1 marked “Bid Bond”**
containing the Bid Bond as per Clause
- **Envelope No. 2 marked “Documentation”**
containing:
 - Name of Tenderer ONLY
 - Instructions to Tenderers
 - Annexes
 - Method of Measurement
 - Conditions of Contract
 - Technical Specifications
 - Addenda (if any)
 - Information as required by Clause.....
- **Envelope No. 3 marked “Priced Bill of Quantities”**
containing:
 - Form of Tender duly completed
 - Priced Bill of Quantities (or completed Price Schedule)
 - Covering Letter and other documentation (if any)

All three (3) envelopes shall be individually sealed and marked as stated above together with the Tenderer’s name, Tender Title and Tender Number.

All three (3) envelopes shall be enclosed in a sealed opaque envelope or package marked only with the Tender Number, Tender Title and closing date of Tender as published in the Government Gazette under the relative notice calling for tenders.

Tenderers are to note and conform strictly with the above procedure in the submission of this Tender

On the closing date of Tender the procedure of the opening and the scheduling of tenders submitted shall be strictly that stipulated in the Eighth Schedule of the Public Service (Procurement) Regulations 1996, a copy of which is included with this Tender Document.

Tenders unaccompanied by a valid original Bid Bond (Envelope No. 1), the necessary Documentation (Envelope No. 2) and samples (to be submitted as directed in tender document) on the closing date and time of tender shall not be considered for award of this contract. Tenderers are to note that the (insert name of Department or Corporation) will fax the Director of Contracts immediately after the closing time and certify whether all the requested samples would have been submitted by any particular bidder. Any missing samples will be identified and the Director of Contracts will be notified accordingly.

Note for Procurement Officers: The above should serve as standard guidelines but certain requirements such as, for example, what is to be included in Envelope No. 2 should be in consonance with the nature of the call for tenders.

Samples should be clearly marked with the name of Tenderer and tender number. Samples should be submitted to (name of Department / Corporation to be filled in) before the closing date and time of tender. Tenderers shall be given a receipt for the samples delivered.

Any tenderer which is not accompanied with the above mentioned information and all the samples requested by the closing time and date for the submission of tenders shall be rejected outright at the tender opening stage.

Note for Procurement Officer: The above clause is to be included under “Instructions to Tenderers”.