

STATUTORY INSTRUMENTS

SUPPLEMENT No. 46

10th January, 2001

STATUTORY INSTRUMENTS SUPPLEMENT

to The Uganda Gazette No. 2 Volume XCVI dated 10th January, 2001.

Printed by UPPC, Entebbe, by Order of the Government.

STATUTORY INSTRUMENTS.

2001 No. 46.

THE ADMINISTRATION OF PARLIAMENT (TENDER BOARD) REGULATIONS, 2001.

ARRANGEMENT OF REGULATIONS.

Regulations.

1. Citation.
 2. Interpretation.
 3. Establishment of Tender Board.
 4. Functions of the Board.
 5. List of Suppliers.
 6. Supplier Selection.
 7. Invitation to tender.
 8. Notice of invitation to tender.
 9. Tender document and terms of reference.
 10. Withdrawal or modification of tender .
 11. Tender Box.
 12. Tender Opening Panel.
 13. Opening of Tenders.
 14. Technical Evaluation of tenders.
 15. Financial Evaluation of tenders.
 16. Technical assistance in evaluation.
- Regulations.
17. Tender Evaluation Committee.
 18. Award of contracts.
 19. Standard contract.
 20. Procurement Officer.
 21. Day-to-day monitoring of contract.
 22. Delegation by the Board.
 23. Simple Procurements.
 24. Application of Tender Board Act.

STATUTORY INSTRUMENTS.

2001 No. 46.

The Administration of Parliament (Tender board) Regulations, 2001.
(Under Sections 24 and 37 of the Administration of Parliament Act, 1997).

IN EXERCISE of the powers conferred upon the Parliamentary Commission by sections 24 and 37 of the Administration of Parliament Act, 1997, these Regulations are made this 21st day of June, 2001.

1. These Regulations may be cited as the Administration of Parliament (Tender board) Regulations, 2001.

2. Unless the context otherwise requires—

“Board” means the Parliamentary Tender Board;

“Panel” means the Tender Opening Panel;

“Supplier” includes Contractor and Consultant.

3. (1) There is established a Parliamentary Tender Board which shall consist of—

(a) two members of the Commission;

(b) the Chairperson of the Board;

(c) one person from the Government Contracted Procurement Agency;

(d) one person from the Procurement and Logistics Management Association (PALMA);

(e) one person from the relevant Ministry;

(f) one person from the Uganda Law Society.

(2) The Chairperson and other members of the Board shall be appointed by the Commission.

(3) The Chairperson and other Members of the Board shall be remunerated on the terms that the Commission may determine from time to time.

(4) The Procurement Officer shall be the Secretary to the Board.

4. The functions of the Board shall be—

(a) to procure or cause to be procured all goods, works and services on behalf of the Commission;

(b) to identify suppliers, contractors and consultants who will provide best value for money in all procurements made by the Commission;

(c) to secure and maintain the quality of services received by the Commission.

5. (1) The Board shall maintain a list of its best suppliers, contractors and consultants which list shall be kept under constant review by the Board and renewed at the beginning of each financial year to remove suppliers who are no longer doing well.

(2) Copies of the list of suppliers, including names, addresses and any other relevant information shall be submitted to the Commission, the Accountant and all Heads of Departments.

6. (1) In the selection of a Supplier the Board shall consider the offer having the best value for money and this shall be through competitive tendering, and short listing.

(2) For purposes of sub-regulation (1) “value for money” means the balance between best performance and quality of service and the lowest price.

(3) Notwithstanding sub-regulation (1) a single tender action may be used only once where the proposed supplier was successful in a previous competitive exercise which took place in a period less than one year and is prepared to offer the same or lower prices for repeat orders.

7. (1) A tender notice shall be published inviting interested persons to tender.

(2) In addition to the tender notice, there shall be a tender document which shall include all instructions to tenderers.

(3) Complementary or clarification information may be provided to any tenderer on request, but where such information or any other information affects the pricing of the tender, the information shall be supplied in writing to all tenderers and such communication shall form part of the tender document.

8. The notice of invitation to tender shall state—

(a) the Commission as the tendering authority;

(b) the subject, purpose and scope of the contract;

(c) if the contract is subdivided into several lots, the order of magnitude of the different lots and the possibility of tendering for one, several or all of the lots;

(d) eligibility criteria and any important or unusual tender evaluation criteria;

(e) the location of the project, the source of financing, the period of performance and in case of a supplies contract, the places of delivery and or installation;

(f) the method of tendering;

(g) the place where the tender document may be inspected and the terms on which it may be acquired;

(h) the period, calculated from the final date fixed for receipt of tenders, during which tenderers shall remain bound by their tenders;

(i) the final date and time fixed for receipt of tenders which shall be not less than two weeks and not more than six weeks;

- (j) the address to which tenders must be sent, the number of copies required and the language to be used;
- (k) the place, date and time for the opening of the tenders;
- (l) the various guarantees required, the amount of each guarantee, depending on the size of the contract, and the time when such guarantees are to be presented; and
- (m) the address or place from which tenders may obtain further information.

9. (1) A tender document shall include among others the following—

- (a) instructions to tenderers;
- (b) description of the method for evaluation;
- (c) the relevant set of general conditions;
- (d) special conditions;
- (e) technical specification, drawings or terms of reference;
- (f) a note of general information;
- (g) a note of applicable tax and customs arrangements;
- (h) a price breakdown and bills of quantities;
- (i) a tender form;
- (j) a form for tender guarantee;
- (k) a form for performance guarantee;
- (l) a contract form;
- (m) an advance payment bond form for contracts where an advance mobilisation is to be paid.

(2) The terms of reference for service contracts shall contain the following—

- (a) a clear statement of objectives;
- (b) the scope and timing of the tasks;
- (c) inputs required from the agency; and
- (d) outputs expected from the agency.

10. (1) A tenderer may withdraw or modify a tender at any time before the last date for receipt of tenders by giving notice in writing to the Secretary to the Tender Board, which notice shall be given in the same manner as if it were a tender, except that it shall be marked “Withdrawal” or “modification” instead of “Tender for”.

(2) Any withdraw or modification of a tender under sub-regulation (1) shall not be accepted if it substantially affect the root of the tender.

(3) A withdrawal shall be unconditional and shall end further participation in the tendering by the party withdrawing.

(4) No tender may be modified or withdrawn between the period of the deadline for receipt of tenders and the period of the opening of the tender.

11. A suitably sized tender box marked “Parliament Tender Box” which is properly fastened shall store all tenders and tenders shall remain in that box until the date and time for their opening.

12. (1) There shall be a Tender Opening Panel consisting of the Director of Finance and Administration and two other persons appointed by the Tender Board from time to time.

(2) The Director of Finance and Administration shall be the chairperson of the Tender Opening Panel.

(3) The Tender Opening panel shall—

(a) open all tenders on the day set for opening of tenders;

(b) ascertain whether the tenders are substantially responsive to the requirements of the tender documents;

(c) determine whether the documents and information requested from the tenderers have been supplied and are complete; and

(d) verify that other modalities for submission of tenders have been fulfilled including whether—

(i) the documents have been properly signed;

(ii) the language and tender currency have been complied with; and

(iii) the period of the tender is in accordance with the tender document;

(e) check the arithmetical accuracy and only arithmetical errors shall be corrected by the Panel in such a way that—

(i) where there is a discrepancy between any amounts stated in figures and in words, the amount in words shall prevail;

(ii) except for lump-sum contracts, where there is a discrepancy between the unit price and the total amount which shall be the result of multiplying the unit price by the quantity, the unit price shall prevail, unless in the opinion of the Panel there has been an obvious error in the unit price, in which case the line total shall prevail and the unit price shall be corrected.

(4) Any arithmetical correction shall be reported and approved by the Tender Board before submission of a tender to the technical evaluation committee for technical examination.

(5) Where a tender in which corrections have been made is awarded to a tenderer, that tenderer shall accept the corrections before the final award is made.

13. (1) Tenders shall be opened in the presence of representatives of the tendering companies, under the supervision and authority of the Chairperson who shall ensure transparency and fair competition.

(2) The Tender Box shall be unlocked at the appointed time and tenders sorted by name or price and given tender numbers.

(3) All tenders opened shall be recorded in a tender record book and the members of the Panel shall sign the record book at the completion of the tender opening to certify the list as a full and correct record of all the tenders taken from the tender box.

14. (1) Tenders opened under regulation 13 shall be technically evaluated by the Tender Evaluation Committee for conformity with the tender document and shall be ranked on the basis of its technical qualities.

(2) The technical evaluation shall include the assessment of the technical capacity of the tenderer to perform, and shall be made on—

(a) the basis of information submitted in the tender on the professional experience of the tenderer, including the experts proposed and the technical means to be used by the tenderer to execute the contract;

(b) the criteria detailed in the tender document, and the particular relevance for works and services contracts;

(c) in the case of supply tenders, on the compliance of the supplies with the technical specifications, including an evaluation of the tender's proposals for the after sales service, if the tender document requires such proposals; and

(d) the price offered by the tenderers.

(3) Where the tender document provides for a system of ranking of the tenders on their technical qualities, the tenders shall be ranked according to the number of points they obtained, following the method specified in the tender documents.

15. Financial evaluation shall ensure that the tenderer's financial quotations are fully comparable to the quality of services or supply required to give the best value for money.

16. The Tender Evaluation Committee may consult the Central Tender Board or a line Ministry for technical assistance considering the complexity and size of procurement or seek technical assistance by a consultant for the evaluation of a tender or for the preparation of a tender document.

17. (1) The Tender Evaluation Committee shall consist of the following—

(a) the Under Secretary/Director of Finance and Administration;

(b) the Head of department which requires the tender;

- (c) Chief Legislative Counsel;
- (d) Principal Accountant.

(2) The Tender Evaluation Committee shall produce a report to the Tender Board for consideration and final decision which report shall include—

- (a) an explanation and background to and the scope of the contract;
- (b) a description of the pre-qualification criteria;
- (c) criteria used in the technical evaluation;
- (d) the sensitivity analysis undertaken or reasons for not undertaking any;
- (e) summary of its recommendation;
- (f) reasons for rejecting unsuccessful bids;
- (g) the cost implications of the recommended bid;
- (h) a comparison of the pre-tender estimates, if any, and confirmation that funds are available;
- (i) confirmation that the tenderer satisfied the quality threshold at the interview stage, if applicable.

18. (1) The Tender Board shall award the contract to a tenderer—

- (a) whose tender is found to be responsive to the tender document subject to the exception under these regulations;
- (b) who for works and supply contract has offered the most advantageous tender as assessed on the basis of—
 - (i) the price, the operating and maintenance costs;
 - (ii) the qualifications of, and the guarantees offered by the tenderer, as well as the technical qualities of the tender; or
 - (iii) the nature of, the conditions and the time limits for performing the contract;
 - (iv) the quality of the works or supplies;
- (c) who for a service contract offers the most advantageous tender taking into account the price, the technical value of the tender, the organisation and the methodology proposed for the provision of the service, as well as the competence, independence and availability of the personnel proposed.

(2) The successful tenderer shall be notified of the intention of the Commission to accept their offer and thereafter the unsuccessful tenderers shall be notified of the decline of their offers.

19. (1) A standard contract shall be approved by the Commission and may be modified to suit any given contract as may be necessary.

(2) A standard contract shall include among others—

- (a) names and addresses of the successful tenderer;
- (b) a list of contract material, including separate documents and annexes covered by the contract;
- (c) definitions of terms used in the contract;
- (d) country of origin of the tenderer and obligations to follow the rules for procurement of supplies and services as specified under these Regulations;
- (e) technical specifications;
- (f) variations that may be made to the contract;
- (g) property in plant and materials;
- (h) conditions and modalities for payments;
- (i) conditions for revision of prices of the contract;
- (j) performance guarantee;
- (k) warranties;
- (l) termination in breach of contract and what constitutes breach of contract;
- (m) termination for insolvency;
- (n) force majeure;
- (o) insurance arrangement;
- (p) performance control;
- (q) resolution of disputes;
- (r) tax and custom arrangement.

(3) The technical specifications referred to under paragraph (e) of sub-rule (2) shall be prepared by the relevant Head of Department and shall be detailed and accurate to facilitate a satisfactory implementation of the contract and shall contain the following information:

- (a) the contract price, including a breakdown of units and unit price in the case of works and supplies;
- (b) terms of reference in the case of services;
- (c) required standards and quality;

(d) commencement and completion dates, and

(e) conditions for delivery, including time limits, place, removal from construction site, and other requirements.

20. The Head of Department or a specialist technician appointed by the Commission shall be responsible for the monitoring of the day-to-day operations of the contract and where necessary consult with the Director of Finance and Administration.

21. (1) The Tender Board may delegate its powers to the Board of Management or a head of department, as indicated below—

(a) for any procurement not exceeding one million shillings, to a head of department; and

(b) for any procurement above one million but not exceeding ten million shillings, to the Board of Management.

(2) Any procurement exceeding ten million shillings shall be handled by the Tender Board.

22. Subject to Regulation 21 all procurements shall require local purchase orders.

23. For any issue or matter that is not provided for under these regulations, the law governing Central Tender Board may apply with such modifications and adjustments as may be necessary for the proper functioning of the Board.

Clerk to Parliament/Secretary of the Commission.

Speaker to Parliament/Chairperson of the Commission.