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

**MODULE SIX SESSION THREE**

**USE OF STANDARD BID DOCUMENTS AND CONTRACT FORMS (1).**

**1.0 Training Objectives**

By the end of the module, participants will:

1. Have a general overview of the bidding process
2. Appreciate the importance of using SBDs in preparation of bid documents for road works and services
3. Be exposed to different types of SBDs and Forms of Contract
4. Analyze the contents of SBDs and be able to prepare bids that match them
5. Practice to complete SBD’s
6. Appreciate the concept of contracts as it relates to the road sector
7. **BIDS AND BID SOLICITATION**

Bid solicitation is a process of identifying potential providers for works, supplies or services required by an entity. It can either be **open** domestic or international bidding; or it can be a **restricted** domestic or international bidding process. Bid solicitation can follow any of the methods approved for procurement of works, supplies or services.

* 1. **Sourcing for Providers**

Sourcing refers to a number of procurement practices, aimed at finding, evaluating and engaging suppliers of works, goods and services. There are a number of accepted sourcing methods under PPDA act.

* 1. **Methods of Sourcing**
1. **Request for Proposal (RFP)**

The Request for Proposal is a competitive procurement that allows the Bidder to provide factors or criteria other than price such as supplier qualifications, experience, project approach, innovation and creativity or value-added services before an award of a contract.

1. **Request for Pre-Qualification**

A Request for prequalification is similar to a Request for Proposal in that a PDE issues a solicitation notice to potential providers by invitation. Rather than making an award, Bidders are prequalified based on the criteria in the solicitation notice and then are placed on a listing for future opportunities as they arise during a specified period. Internal users or customers of the organization can then select any of the pre-qualified Suppliers or Service Providers to submit formal proposals and award a contract without having to go through a further public invitation.

1. **Request for Expression of interest (EOI)**

A Request for Information or Expression of Interest is generally used during the information gathering and analysis stage of a procurement to collect relevant product information, potential providers and availability data or to determine the level of competition with respect to the object of the procurement request. This sourcing method is used when an entity requires new or additional information concerning:

* 1. What type of product or service Suppliers offer; or
	2. The availability of a specific type of product or service in the marketplace

To develop a shortlist of providers

1. **Request for Bids**

A public call for bids may be made without first calling for prequalification. Any person who finds appropriate may obtain and submit a bid. The bidding process starts after internally the user unit requisitions for works/supplies or services for which the entity has budgeted, funds have been confirmed, and the bid document approved by the Contracts Committee.

* 1. **Issue and sale of bid documents**

A PDE will avail bid documents to potential providers for free or at payment of a fee. Where prequalification, expression of interest or proposals have been made the documents may only be issues to providers who have been shortlisted. The following issues should be considered:

1. Providers should be given opportunity to look at the documents before purchase.
2. Providers may also ask for any clarification before purchase of the document.
3. The cost for the document is meant to be just a recovery cost not a revenue generating activity
	1. **Managing bid responses**

When responding to bids attention must be paid to the following

* Minimum bidding period Clarifications and amendments
* Pre-bid meetings
* The meaning of bid-validity and determining bid validity
* Bid security
* Bid submission methodology (Number of envelopes and stages required) and declarations.
* Withdrawal, replacement and modification of bids.
* Evaluation criteria
* Methods of receipt of bids
* Bid opening and proceedings at bid closing
* Link with bid evaluation
	1. **Comparison of Procurement with Pre-qualification and Procurement without Pre-qualification**

|  |  |  |
| --- | --- | --- |
|  | **Stages of Pre-qualification Procurement** | **Stages in Procurement without Pre-qualification** |
| 1 | Invitation to general public for expression of interest or prequalification | Invitation to general public to bid  |
| 2 | Issue of prequalification Documents  | NA |
| 3 | Receipt of EoI/prequalification documents  | NA |
| 4 | Evaluation of EoI | NA |
| 5 | Pre-qualified List of Providers. | NA |
| **6** | **Issue of bidding documents to prequalified providers** | Issue of Bidding Documents to interested parties |
| **7** | Pre-bid meeting | Pre-bid meeting |
| **8** | Receipt of Bids and Closing  | Receipt of Bids and Closing  |
| **9** | Opening of Bids | Opening of Bids |
| **10** | Evaluation of Bids  | Evaluation of Bids  |
|  |  |  |

* 1. The bidding process
		1. Preparation and approval of bid documents
		2. Issue or sale of bid documents
		3. Pre bid meeting

It is important for bidders to attend a pre-bidding meeting whenever it is called. A pre-bid meeting is necessary to provide clear explanations from the PDE and to enable potential providers to seek clarification about the works including inspection of sights. A PDE shall hold a pre-bid meeting for high value and complex tenders falling within the following categories: For works above 200m, for supplies over 140m and for services over 100m.

The notice of pre-bid meeting shall be included in the bid documents and any bid notice such that bidders do not miss noticing it. It is also important to provide sufficient time from the date of the bid meeting to the expiry of the bid period so that any information obtained fro it can be incorporated in the bids. Minutes of the pre-bidding minutes should be taken and the notes and any addenda shall be provided to all bidders who purchased or were issued with the bid documents.

In some instances bidding is restricted to only those that attend the pre-bidding meeting!

Recommended time frame for different types of bids is given below:

|  |  |
| --- | --- |
| Type of bid | Number of working days |
| Open domestic bid | 18 |
| Restricted domestic | 15 |
| Open international bids | 30 |
| Restricted international bids | 18 |
| Quotations and proposals | 5 |

* + 1. Bid preparation

A Bid is an offer made by the bidder to provide works, services or supplies or a combination thereof in response to an invitation of a PDE. The bid should be carefully prepared to comply with the requirement of the procurement entity. Deviation from such requirement may lead to disqualification or loss of crucial point during evaluation. It is common practice now for PDE to provide a standard Bid Document (SBD).

The time frame for submission of bids should allow sufficient time to bidders to prepare and submit meaningful bids.There is a PPDA timeframe guideline for works, supplies and services that must be observed.

Failure to adhere to the guideline without approval or waiver by PPDA is one of the corruption prone areas in procurement and a major source of disputes!

* + 1. Bid submission/receipt

Read the bid documents carefully to ensure that bids are submitted in the format specified in the bid documents. Ensure compliance such as how they are to be addressed and delivered. (These days it is possible to deliver bids by e mail or soft copies), the number of copies, how they should be sealed, enveloping - say separate technical and financial envelopes, powers of attorney, bid security etc.

Note the location for the delivery of bids. It should be clear and precise in the bid documents. Deliver the bids at the reception point before the deadline. It is frustrating after a tedious bid preparation to be disqualified because of being a few minutes late! A box may be provided to deposit bids and usually it is closed once the time lapses. Bid submission should be recorded in an appropriate register/form; ensure that your submission is duly registered.

* + 1. Bids opening

Bids are required to be opened in the presence of all bidders or their representatives who wish to attend. Usually this is soon after the deadline or such time as is stipulated in the bid invitation document. Whenever possible be represented at the bids opening.

* + 1. Bids evaluation

Evaluation of bids is the responsibility of the Evaluation Committee which is approved by the contracts committee and constitutes of representatives of the user department and technical persons conversant with the procurement. The evaluation team will score the bids using the criteria stated in the bid documents only. Since there is a degree of judgement involved in evaluation, there should be a reasonable number of knowledgeable and impartial members to do the evaluation. Where submission by a bidder may not be clear, the evaluation team may contact the bidder to obtain such clarification but not to alter or to correct the bid. The bid evaluation should be done speedily within the timeframe.

The evaluation team must be principled and desist from being influenced by persons having an interest in the outcome of the bid.

* + 1. Bid evaluation notification

On completion of the bid evaluation, the Contracts Committee as advised by the Evaluation Committee shall declare the Best Evaluated Bidder. Such information will be publicly displayed in accordance with the PPDA guidelines. Where there is no objection, the Contracts Committee will proceed to notify the bidder, hold a negotiation meeting and seek the mandate of the Solicitor General to sign a contract.

Notification of the Best Evaluated Bidder does not constitute a contract between the prties.

* + 1. Negotiations meeting.

A negotiation meeting is held between the bidder and the PDE after notification as the Best Evaluated Bidder and statutory notification but before contract signing. Such a meeting allows the parties to confirm the key elements of the bid and to also agree on some items that may not be clear. Core issues that may be addressed are the availability of key personnel, equipment, timing of activities, commencement, scope and the like.

The bid price is not a subject of the negotiation meeting.

The Minutes of the negotiation meeting should be signed by all parties present and appended to the contract as an integral part of it.

* + 1. Award and contracting

A Contracts Committee awards a contract basing on the evaluation committee decision. An award letter and award acceptance is normally done before the signing of a formal contract. However, a contract award decision does not amount to a binding contract between the provider and the PDE.

Before contract signing, the PDE should do a verification to determine whether the Best Evaluated Bidder has the capability and resources to effectively carry out the contract. This is very important particularly where short listing was done and substantial time has elapsed since.

Approval of the Solicitor General should be obtained before a contract is signed with the bidder.

**1.1 Understanding SBDs**

SBD’s are documents used by the PDE to solicit/request for irrevocable offers from the providers to supply the identified requirements. They set out the rules of the procedures to be followed in bidding and the conditions of any resulting contract.

**1.2 Things to note about SBD’s**

* SBD’s provide uniform information to all bidders
* SBD’s elaborate the procedures and regulations of bidding
* SBD’s are normally sold on a cost recovery basis
* Bidders are allowed to inspect the SBDs before purchase
* Language of SBD’s is ENGLISH
* SBD’s are standard. PDEs can make only very minor changes, therefore once mastered they are easy to handle.
* They are worded to promote and encourage competition – laying the basis for competitive bidding
* SBD’s describe the nature of the procurements for which bids are invited
* They establish the technical standards which must be met
* They state the criteria for the evaluation of bids
* Reduce the bidders’ preparation time and effort
* Makes it easy for evaluation.

**1.3 Purpose of SBDs**

* SBDs provide all the information required for bidding and evaluation
* Provide bidders with the same standard information
* Simplify the preparation of bidding documents by the PDE as well simplify the bid preparation for the provider.

**1.4 PARTS OF AN SBD**

**PART 1 BIDDING PROCEDURES**

***Section 1 Instructions to Bidders (ITB)***

* Provides the bidder with information needed to understand the context and reasons for the procurement and give guidance to the bidder on how to complete and submit the bid. It draws the bidder’s attention to areas requiring specific consideration.

***Section 2 Bid Data Sheet (BDS)***

This section provides all the basic information about the bid. It must be read carefully to understand simple information of critical importance to the bidding process. It is filled by the PDE giving the following information to the bidders:

* Name of PDE
* Commencement date
* Subject of procurement
* Procurement Reference No
* Contact address and persons
* Medium of communication
* Language of the bid
* Scope of prices quoted
* Currency
* Validity period
* **Bid security requirements– amount and type**
* **No of copies to be submitted with original**
* Lots involved
* **Address and room of bid submission**
* **Bid opening- address, room and time**

 ***Section 3. Evaluation Methodology and Criteria***

Before filling in any bid proposal, it is crucial to read and comprehend the way the bid shall be evaluated. This helps to assess whether you will be able to participate and secondly where to put emphasis when making a proposal particularly where it is open ended (such as in an expression of interest). This section states:

* Preliminary evaluation-Eligibility requirements
* Commercial and Technical examination
* Financial evaluation
* Post Qualification criteria
* Basis for determining the Best Evaluated Bid (It is not always necessarily the lowest bidder!)

***Section 4. Bidding forms***

The section gives the bid documents and their format. The format of each form should be complied with to avoid technical disqualification or loss of points. The forms are filled and submitted by the Bidder. These are made up of:

* Bid Submission Sheet – declaration by the bidder of conformity with the bidding document
* Bid Security – Bid security declaration form
* Price schedule – shows calculation and declaration of bid price by bidder
* Qualification Form – declaration of the bidders qualification to perform the assignment – previous work done, equipment , key personnel

***Section 5 Eligible countries***

The section, if for international bids states the countries whose providers are allowed to bid. Such restrictions normally arise from the conditionalities of funders of the project.

**PART 2 STATEMENTS OF REQUIREMENTS**

***Section 6 Statement of requirements***

* Refers to the description of the object to be procured.
* It is a statement of a set of requirements to be satisfied by procurement. For different categories they include:

 Works:- The scope of works; Bills of quantities and designs.
 Supplies:- The detailed Specification of the goods to be procured.
 Services:- The terms of reference and deliverables.

**PART 3 CONTRACTS**

***Section 7 General conditions of contract (GCC) for the procurement of supplies***

General conditions of the Contract – these contain standard provisions

* these provisions are to remain unchanged
* these provisions are to be used without modifying their text

***Section 8 Special conditions of contract (SCC)***

Special Conditions of the Contract-

* These supplement the General Conditions of Contract
* They modify conditions applicable to an individual contract

***Section 9*** ***Contract forms***

These forms must also be carefully srutinised and where applicable complied with.

* Bidding Forms
* Bid Submission Form
* Bid Security
* Price Schedule
* Qualification Form
* Agreement Form
* Performance Security

**Common Mistakes in SBDs**

* Inconsistence in information especially Newspaper adverts and SBDs
* Inadequate TOR, SOW and Specifications
* Conflicts within the PDE where the Statement of requirements is tailored for specific Providers
* Inconsistence in sections especially Section 1 (Instructions to bidders) and Section 2 (Bid Data Sheet)
* Failure by bidders to stick to formats of documents provided.

**1.5 PROCUREMENT STANDARD BIDDING DOCUMENTS**

**There are three categories of procurement SBDs**

SBDs for procurement of Supplies

SBDs for procurement of Services

SBDs for procurement of Works

**It is important for the trainees to inspect and become familiar with each type of SBD and enen be able to point out how they are different.**