

## **05 Annex - Public Procurement**

### **28. RULEBOOK ON THE METHODOLOGY FOR EXPRESSING THE CRITERIA INTO AN APPROPRIATE NUMBER OF POINTS AND ON THE METHOD AND PROCEDURE FOR THE ASSESSMENT AND EVALUATION OF TENDERS**

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Pursuant to Article 70 paragraph 2 of the Public Procurement Law (Official Gazette of the Republic of Montenegro 46/06), the Ministry of Finance hereby issues the

**RULEBOOK ON THE METHODOLOGY FOR EXPRESSING THE CRITERIA INTO AN  
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## **I GENERAL PROVISIONS**

### **Article 1**

This Rulebook shall regulate the Methodology for expressing the criteria into an appropriate number of points along with the manner and procedure for the assessment and comparison of tenders.

### **Article 2**

The selection of criteria must have a link to the subject-matter of the public procurement in question.

The application of the most economically advantageous tender criterion must be duly justified, from the aspects of need for selection of that criterion and a logical connection that the selected criterion has with the subject-matter of the public procurement.

Criteria and subcriteria should be described clearly and comprehensively, so that each economic operator can understand, in a uniform manner, the criteria, subcriteria and work methodology of the Commission for opening and evaluation of tenders.

### **Article 3**

Review, assessment and comparison of tenders, as well as the award of public contracts shall be efficient, transparent and impartial.

## **II THE MOST ECONOMICALLY ADVANTAGEOUS TENDER CRITERION**

### **Article 4**

The selection of the most advantageous tender, applying "the most economically advantageous tender" criterion, is based on various subcriteria, depending on a subject-matter of the public procurement and in particular on:

- 1) Quality;
- 2) Price;
- 3) Aesthetic and functional characteristics;
- 4) Delivery date or delivery period and period of completion;
- 5) Current running costs;
- 6) Cost-effectiveness;
- 7) Technical merit;
- 8) Environmental characteristics;
- 9) After-sales service and technical assistance;
- 10) Warranty period, warranty type and quality, and guaranteed value;
- 11) Obligations regarding spare parts;

12) Post-warranty maintenance etc.

### **Subcriteria selection**

#### **Article 5**

The contracting authority shall, on the occasion of selecting subcriteria contained in the Article 4 of this Rulebook, determine the subcriteria which are essential to the subject-matter of the public procurement and which are objectively verifiable.

The contracting authority should clearly indicate and explain in detail in tender documentation the link between the subject-matter of public procurement and the established subcriteria, as well as the elements that induced the contracting authority to determine those subcriteria.

### **Selection of criteria for public procurement of works**

#### **Article 6**

The contracting authority shall, in particular, use the following subcriteria for procurement of works:

- Price,
- Aesthetic and functional characteristics,
- Period of completion of works,
- Running costs,
- Programme and degree of environmental protection,
- Cost-effectiveness and
- Post-warranty maintenance.

### **Selection of criteria for public procurement of goods**

#### **Article 7**

The contracting authority shall, in particular, use the following subcriteria for procurement of goods:

- Price,
- Quality,
- Aesthetic and functional characteristics,
- Delivery date,
- Running costs,
- Technical merit,
- After-sales service and technical assistance,
- Warranty period, warranty type and quality, and guaranteed value,
- Obligations regarding spare parts.

### **Selection of criteria for public procurement of services**

#### **Article 8**

The contracting authority shall, in particular, use the following subcriteria for procurement of services:

- Quality,

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- Aesthetic and functional characteristics,
- Service delivery period,
- Cost-effectiveness,
- Technical merit and
- Price.

### **Methodology for determining the number of points for each subcriterion**

#### **Article 9**

The number of points for each individual criterion shall be determined depending on the significance that each criterion has for the subject-matter of public procurement.

The contracting authority shall ensure that there is an appropriate proportion among the points, which are awarded upon certain subcriterion, taking into account the significance of the selected subcriterion and its connection with the subject-matter of public procurement.

By way of exception to paragraphs 1 and 2 of this Article, the offered price, as a selected subcriterion for procurement of goods, is determined by a dominant number of points, while the remaining number of points shall be divided to the rest of the subcriteria, taking into account their significance for the selection of the most advantageous offer.

### **III THE OFFERED PRICE AS A SELECTED SUBCRITERION**

#### **Article 10**

Depending on a subject-matter of public procurement, by application of the lowest price subcriterion as a basis for evaluation of tenders, the offered prices are used for the selection of the most advantageous tender, provided that they were submitted by the tenderers whose offers were valid.

The maximum number of points, according to this subcriterion, is awarded to the tenderer who offered the lowest price, while the rest of tenders, according to this subcriterion, are awarded a proportional number of points, depending on the price they offered.

### **IV MANNER AND PROCEDURE FOR REVIEW, ASSESSMENT AND COMPARISON OF TENDERS**

#### **Establishment of the Commission for Opening and Evaluation of Tenders**

#### **Article 11**

Contracting authority shall, in the decision on establishment of the Commission for Opening and Evaluation of Tenders as provided for in paragraph 1 of this Article, appoint the Chairman and members of the Commission for Opening and Evaluation of Tenders, determine the tasks that should be performed by the Commission for Opening and Evaluation of Tenders, set the time limits for their completion, establish an obligation of signing a Statement of Independence by the Members of the Commission for Opening and Evaluation of Tenders and professional service and/or experts in certain fields which are subject-matters of the public procurement, and who were recruited by the contracting authority, proposed by the Commission for Opening and Evaluation of Tenders, and give them necessary authorizations in purpose of enabling them to conduct their established tasks and address other issues of importance for the establishment of the Commission for Opening and Evaluation of Tenders.

Commission for Opening and Evaluation of Tenders is responsible to the contracting authority for performance of delegated tasks and it shall perform only those tasks or assignments which the contracting authority submit to the Commission in writing.

## **Operations of the Commission for Opening and Evaluation of Tenders**

### **Article 12**

Commission for Opening and Evaluation of Tenders is authorised and obliged to perform tasks, within the time-limit specified by a certain act of establishment and submits a proposal by a simple majority of votes.

On the occasion of reviewing, assessing and comparing the tenders, the Commission for Opening and Evaluation of Tenders shall apply forms 1 and 2, which are published with this Rulebook and are included in it.

On the occasion of reviewing, assessing and comparing the tenders, members of the Commission for Opening and Evaluation of Tenders shall apply form 1 for the use of the most economically advantageous tender and lowest offered price criteria.

On the occasion of reviewing, assessing and comparing the tenders, members of the Commission for Opening and Evaluation of Tenders shall apply form 2 for the use of the most economically advantageous tender criterion.

## **Examination of bids and determination of their acceptability**

### **Article 13**

The Commission for Opening and Evaluation of Tenders shall firstly examine all received bids, in purpose of determining whether:

- a) the bids meet all the requirements regarding their eligibility, which are provided for in the contract notice and in tender documentation,
- b) the bids are properly signed,
- c) the bids are accompanied by a proper guarantee, where it is required by the contract notice and tender documentation and
- d) the bid is not valid and whether the bid assessed as valid one contains some shortcomings as provided for in Article 68 paragraphs 2 and 69 of the Public Procurement Law.

### **Article 14**

The contracting authority, after the public opening of tenders, may not require, that is, allow for:

- a) alteration of prices,
- b) alterations of the content of the tender or
- c) alterations, upon basis of which the unacceptable tender would become acceptable.

## **Correction of calculation errors**

### **Article 15**

The valid tenders shall be examined, by the contracting authority, for the purpose of detecting the arithmetical errors.

The detected arithmetical errors shall be corrected, by the contracting authority, in the following manner:

- a) in case there is a disproportion between amounts given in figures and those given in words, the amount given in words shall be the decisive one,
- b) in case the tenderer makes omission of certain smaller items, these omissions are determined quantitatively in monetary terms, by comparison of all tenders and the average value of the omitted item. The value of the omitted item is determined and the basis thereby

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used is indicated, solely for the purpose of comparison. Quantitatively determined value of the omitted item is added to the offered price,

- c) in case there is a disproportion between unit price and total amount obtained by multiplying the unit price with the quantity, the indicated price shall be decisive, unless, according to the opinion of the contracting authority, there is incorrect location of the decimal point in the unit price, in which case the total amount shall be decisive and the unit price shall be corrected.

The amount indicated in tender shall be altered, by the contracting authority, in accordance with the above mentioned procedure for correction of errors and fulfillment of the tenderers' requests, and it shall be binding for the tenderer. In case that the tenderers do not accept the corrected amount, their tenders shall be rejected.

**Article 16**

In purpose of providing assistance upon review, assessment and comparison of tenders, the contracting authority may, by its own discretion, require in writing, from any tenderer, clarification regarding the tender, including explanation of the unit prices specification.

Request for submission of explanations referred to in paragraph 1 hereof and the response shall be delivered in writing, upon which there shall not be required, offered or allowed for alterations of the price or content of the tender, unless the request relates to the confirmation of the arithmetic errors correction, detected by the contracting authority upon review of the tenders.

**Review, assessment and comparison of tenders**

**Article 17**

The Commission for Opening and Evaluation of Tenders shall review all submitted tenders, in purpose of establishing their validity, in accordance with the provisions of Article 68 of the Public Procurement Law.

The tenders which the Commission for Opening and Evaluation of Tenders assess as incorrect, pursuant to the provisions of Article 69 of the Public Procurement Law, shall be rejected, stating the reasons for the rejection.

The correct tenders shall be assessed and compared, in accordance with the criteria and subcriteria, laid down in the contract notice and in tender documentation.

Each member of the Commission for Opening and Evaluation of Tenders shall, in particular:

- a) conduct an individual review, assessment and comparison of tenders, upon basis of data provided in the offers and contracting authorities' requests which are stated in the text of the contract notice and in tender documentation,
- b) provide a written explanation for the conducted review, assessment and comparison procedure and for the number of awarded points, on basis of each criteria and/or subcriteria contained in the text of contract notice and tender documentation,
- c) Submit to the Chairperson of the Commission for Opening and Evaluation of Tenders a filled out form of tenders' evaluation minutes and filled out forms 1 and 2.

After conducting the individual evaluation, the Chairperson of the Commission for Opening and Evaluation of Tenders shall, in the presence of the members:

- a) Determine the average, based on the average results obtained by each member,
- b) Determine rankings of the valid tenders, in descending order and
- c) Draw up a record of the review, assessment and comparison of tenders on the public procurement form, where the reasons on basis of which the Commission made the decision are specifically stated, accompanied by the explanations for the decisions made, as well as

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the attitudes of each member of the Commission for Opening and Evaluation of Tenders, with their separate opinions.

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**V FINAL PROVISION**

**Article 18**

This Rulebook shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.

No 07-7069

Podgorica, 16 November 2006

MINISTRY OF FINANCE

Minister,

Igor Lukšić, PhD