

TENDERING PROCESS IN BARBADOS

S.I. 2011 No. 54 - Financial Management and Audit Act (Act 2007-11)
Financial Management and Audit (Financial) Rules, 2011- section 222 (4) states:

“Where the expenditure in respect of the supply of services or supplies exceeds \$200 000.00, the accounting officer or the authorized officer shall, on behalf of the department, invite tenders for the supply of services or supplies.”

Tender in this instance means: make a formal written offer to carry out work, supply goods or services for a stated fixed price.

Goods, work and services costing Bds \$200, 000.00 or more need to be advertised in order to source the supplier of those goods; the contractor for building that road, school, office complex etc. or the service provider for transporting staff or cleaning offices etc.

Funding Agencies That Cover the Expenditure for the Purchase of Goods, Services and works

The funding of Government’s expenditure is covered by i) Government itself; ii) regional funding agencies; and iii) international funding agencies. Examples of regional and international funding agencies include:

1. The Caribbean Development Bank
2. The Inter-American Development Bank
3. The European Union
4. United States Agency for International Development
5. The World Bank
6. Commonwealth Fund for Technical Cooperation

The Tendering Process

To begin the tendering process the following information is required on file:-

- A full description of the project, good or services is required.
- The approval for the expenditure must be seen on file. If it is a Cabinet decision, a copy of the Cabinet Paper must be submitted on the file along with a copy of the 'yellow paper' setting out the decision. If the Permanent Secretary or his/her setting representative has made the decision for the expenditure then that decision must be clearly shown on file.
- A draft Tender Notice should be submitted for approval as well as the draft Instruction to Tenderers and draft Tender documents. At present there are no Standard Bidding Documents but Specimen documents are available upon request. It must be noted that Tender Notices are **not** to be advertised unless they are approved by the chairman of the Tenders Committee (Rule 231(2)). In addition no Tender Documents are to be given to the public unless they have been approved by the Chairman of the Tenders Committee.

All Tender Notices should:

- Contain a subjected heading which must include the name of the Ministry of Department advertising the Tender;
- Inform of the source of the funding for the expenditure being undertaken;
- Outline the nature of the projected being undertaken in the first paragraph. If construction is being undertaken an outline of the project should be stated as well as the address of the proposed project;
- State the manner in which members of the public shall make the tenders;
- Provide the period in which the services are to be completed;
- State the department where additional information concerning the required services or required supplies may be obtained and the times at which the information may be available;
- State where applicable that the Labour Clauses (Public Contracts) Act applies to the subject of the tenders;

- State that the members of the public shall address the tenders to the Chairman of the Tenders Committee;
- State that the tender shall not be considered unless it complies with the conditions set out in the notice inviting the tenders or the letter inviting the tenders;
- State that the Certificate of Incorporation should be included with the Tender;
- Inform that the Government is not bound to accept any tender.

Instructions to Tenderers

The instructions to Tenderers (**see attached specimen**) should inform as to how the Tender should be completed; how it would be evaluated; conformity requirements; matters that may result in disqualification of tender; deadlines for raising queries; deadlines for submission of Tender.

In addition it must be noted that where additional information is to be furnished to tenderers , other than what was stated in the Instructions to Tenderers it should be entitled “Addendum 1, 2 etc.” Similarly if a Tenderer raises a query it must be recorded and the response as well as the query should be sent to all prospective Tenderers. That is all persons who collected or purchased Tender Documents. This information would also be considered Addenda. Tenderers should also be advised to acknowledge receipt of the Addenda. Copies of the Addenda must be placed on file for the information of the Tenders Committee.

Terms of Reference- (see attached specimen**)**

With regard to Consultancy Services, a clear statement must be made as to the type of service to be provided and the required outputs; the known issues to be provided and the required outputs; the known issue to be addressed and the expected solutions; a payment schedule with associated deliverables; reporting requirements; procuring entity’s inputs.

Types of Tender Notices

1. General Tender Notice

This is used for the advertisement for the supply of goods e.g. food commodities; oils and lubricants; supply of uniforms; general services for e.g. transportation of staff, cleaning services, security services, small construction services, burial of destitute persons. **See Attached Specimen for guidance.**

Where a surety is required, the Tender Notice must state that the procuring entity requires a surety by way of:

- a) A deposit of a sum of money with the Treasury; or
- b) Approved securities to the value of not less than 10% of the contract price; or
- c) A bank or an accredited insurance company whose liability is not less than 10% of the contract price.

2. Request for Expressions of Interest

This is normally used for the supply of services e.g. provision of technical services prior to the construction of large projects and the provision of specialized consultancy services. Interested persons are invited by way of an advertised notice entitled **Request for Expressions of Interest**. **(See Attached Specimen for guidance).**

There are required to submit their qualifications which may include technical expertise; experience; audited financial statements and/or certified bank statements to confirm that they have the financial capacity to undertake the contract. After the Expressions of Interest are assessed a shortlist is approved based on a predetermined minimum score. Hence you would have had a process where persons had to prequalify. Those persons approved or short-listed are then invited by letter to submit quotations for providing that service (Letter of Invitation). For very technical services those who prequalified would be sent a Request for Proposals document along with the Letter of Invitation. (In both

instances the letter of Invitation would take the format of a Tender Notice). This is where short listed tenderers are asked to submit a Technical and Price Proposal. The Technical Proposals are opened until the highest ranked Technical Proposal is determined. At this stage the Price Proposal of the Tenderer with the highest ranked Technical Proposal is opened and negotiations then take place in order to arrive at an agreed price. If an agreement cannot be reached then the price Proposal of the person with the next highest ranked Technical Proposal is opened. This process is undertaken in order to ensure that the best person is awarded the contract irrespective of the price.

3. Request for Technical and Price Proposals

This is normally used for consultancy services. This notice **(see attached specimen)** will request persons to submit Technical and Price Proposals for a stated service. It will also inform that the process will be a two envelope process. The Terms of Reference would also be available when prospective tenders pick up their documents from the procuring entity. The Request for Proposal Notice will also state that the required documents must be submitted in the envelope with the Technical Proposal given that the Price Proposal Envelope would not be opened at the same time as the Technical Proposal. In addition it would also inform that the Price Proposal Envelope would not be opened at the same time as the Technical Proposal. In most cases the Technical Proposals would be evaluated and ranked and then the Price Proposal of the tender with the highest ranked technical proposed will be opened. Generally the notice would follow the same guidelines as a Tender Notice. In some cases when dealing with services that are not deemed highly specialized a two envelope system may also be used. However the Technical Proposals are assessed and ranked, then all the Price Proposals are assessed and ranked and then the two scores are combined in order to arrive at an overall ranking of the combined scores.

When Tenders are not Advertised

1. Where the Tenders Committee is satisfied that there are not more than seven persons in Barbados capable of providing the service or good then were would

be no need to advertise the tender (Rule 232). The Ministry or Department must convince the Tenders Committee that this is factual. Hence clear evidence must be submitted on file that there are not more than seven persons capable of providing the good service a letter must be sent to those persons inviting them to submit tenders for the supply of good or service. This is called a **Letter of Invitation** and would take the same format as a Tender Notice.

2. The Cabinet may authorize services or supplies to be procured in a manner other than by invitation to tender (Rule 239 (1)) where it is of the view that the required services are:
 - a) Of a specialized nature;
 - b) Not normally available in Barbados;
 - c) Required as matter of urgency.

The Cabinet may also direct that the supplies be pronounced through direct negotiations in accordance with arrangements as the Cabinet directs (Rule 239(2)).

Advertising of Tenders

Tenders must be advertised in at least one newspaper in Barbados on at least two occasions. Generally the time between the placing of the advertisement and the closing date is six weeks but this may vary depending on the complexity and type of tender. For tenders being funded by International Funding Institutes (IFI's) they would stipulate the length of time between the first advertisement being placed and the closing date. Some of them would also instruct where the advertisement is to be placed e.g. magazines, website etc. this would depend on the cost and/ or the type of tender being advertised. The standard Bidding Document of the particular funding agency would indicate the mode of advertisement required.

Submission of Tenders

All Tenders are closed at 4:30pm on Wednesdays. Tenders **must be placed** in the Tenders box since they are not to be handled by staff of the Central Purchasing Department. Tenders are therefore addressed to the **Chairman, Tenders**

Committee and not the Chief Supply Officer. The Tenders Box is locked and removed from public access by the Secretary to the Tenders Committee at 4:30 p.m. Hence if someone comes at 4:31pm the box would not be available for submission of Tenders. If the Tender is dropped in the box on the following day it would not be considered because it would be late.

Late Tenders are **not** considered. They are returned to the person who submitted them unopened.

Receipt of Tenders

On the Thursday following the Wednesday that the Tender is closed, the Tenders are opened. Projects funded by Government are opened in the presence of the Tenders Committee only. Projects funded by IFI's are opened in the presence of the Special Tenders Committee. The required information is recorded along with the Tenderer's name they are signed by members of the Special Tenders Committee and sent to the procuring entity, namely the Ministry or Department for Evaluation. These documents along with the Ministry's file are sent back on the Friday following the Thursday. That is the next day. The Tenders Committee then awaits the resubmission of the Evaluation Report before making its recommendation to the procuring entity. If the Evaluation is not completed within three (3) months an extension of the Bid validity period from tenderers would have to be requested, since Bid Validity Periods are usually three months. In addition once the file is resubmitted on the Monday before the meeting scheduled for the Thursday the matter will be on Thursday's agenda. It must be noted that Heads of Departments represented on the Committee often want to see the Agenda by the Tuesday before the meeting so that a decision can be made on the representative to send to the meeting; thus the need for the file to be submitted by the Monday.

When Government's expenditure is **locally funded**, and the expenditure is in excess of Bds\$200 000.00 The Tenders Committee is convened in order to make a recommendation as to the supplier of the good, works and service.

The Tenders Committee- Rule 218(1) and Rule 218(2)

The Tenders Committee is comprised of:

The Chief Supply Officer (Chairman);

The Solicitor General or another legal officer in the Public Service nominated by the Solicitor General and

Five other officers appointed by the Minister.

One person other than the Solicitor General's representative is elected Deputy Chairman at the first meeting in the Financial Year;

The Tenders Committee must also have a Secretary who is appointed by the Director of Finance.

The quorum of the Committee is four persons.

A member of the Tenders committee shall hold office for three years.

A special Tenders Committee is convened when procurement is funded through the proceeds of a loan or grant from an (IFI). When the IFI's funding is used, the funding agencies procurement guidelines and Standard Bidding Documents are used. However care must be taken to ensure that these guidelines do not conflict with the Laws of Barbados

Special Tenders Committee- Rule 219(1) and Rule 219(2)

The Special Tenders Committee is comprised of:

The Chief Supply Officer (Chairman);

The Solicitor General or another legal officer in the Public Service nominated by the Solicitor General;

Five officers appointed by the Minister;

Other persons not exceeding five persons as the Director may appoint with the approval of the Minister.

The Deputy Chairman of the Tenders Committee shall be the Deputy Chairman of the Special Tenders Committee.

A member of the Special Tenders Committee shall hold office for such time as the Director specifies.

The quorum of the Special Tenders Committee is two thirds (2/3) of its members including the Chairman and Deputy Chairman.

Functions of the Tenders Committee

The functions of the Tenders Committee are:

1. To receive and open tenders;
2. To ensure that the tendering process is carried out in a fair and transparent manner;
3. To ensure that Government gets value for money;
4. To ensure that all laws, policies and guidelines are adhered to;
5. To assess evaluation reports and analysis;
6. To make recommendations for award of contracts.

When a recommendation has to be made to the procuring entity, usually it is the lowest evaluated tender that is recommended for the award of the contract. The difference between the lowest priced tender and the lowest evaluated tender is that the lowest price does not always translate into the lowest long term cost outlays to the entity.

Other than price the lowest evaluated tender takes into account issues such as:

- a. Product or contractor reliability
- b. Performance history;
- c. Maintenance and operating requirements and cost;
- d. Delivery schedules etc.

Evaluation of Bid Validity Periods

The procuring entity has responsibility for evaluating tenders. Hence the onus is on the entity to ensure that persons possessing the requisite competencies are placed on the Evaluation Committee. The evaluation should be fair, reasonable and objective. Previously set criteria should be strictly adhered to. Where applicable arithmetic checks should be made. Any error corrections should be sent to the tenderer for acceptance. If the tenderer does not accept the correction, the tender should be rejected.

Extension of Bid Validity Periods

Every effort should be made to conclude the Evaluation and award of contract within the Tender (Bid) Validity period. This is usually 90 days after the opening of the Tender. Where this is not possible, a request should be made of all tenderers to have the Bid Validity Period extended. This request should be made before the Bid Validity Period expires. Responses from Tenderers should also be received prior to the expiration of the Bid Validity Period. All this should be done in writing and placed on file. The Tenders Committee cannot consider tenders whose validity has expired.

Annulment of Tender Process

The Tender process may be annulled at any stage for any of the following reasons:

1. Lack of transparency;
2. Favouritism or unfair advantage to benefit a particular tenderer;

3. Lack of confidentiality;
4. Conflict of interest;
5. Insufficient competition;
6. Lack of responsiveness of tenders to the tender requirements;
7. Tender prices inconsistent with pre-budget estimates;
8. Failure to follow established procedures;
9. Undue influence.