



F.No. 11(110)/M&E/PPRA/2019/204

Islamabad, August 21, 2020

Subject: **EXPLANATION OF RULE 2(1)(h) REGARDING MOST ADVANTAGEOUS BID**

Reference Auditor General of Pakistan's letters No.211/APS/DG(B&A)/Misc/2020 dated 23.06.2020 & No.213/APS/DG(B&A)/Misc/2020 dated 21.07.2020 regarding "Request for Clarification", deliberations were made at PPRA for issuance of explanation narrated vide Para-2 below (for the guidance of the procuring agencies):

2. "Most Advantageous Bid" defined in Definition Clause of Public Procurement Rules, 2004 (amended up to 19 May, 2020) is explained as follows:-

A. FIRST PART OF THE RULE 2(1) (h):

First part of the Rule consists of Eligibility, Qualification and Substantial Responsiveness explained below: -

- a. **Eligibility:** Eligibility means that the bidder meets basic general and specific requirements established either for that particular trade or business or declared mandatory by the Regulatory Authority or Procuring Agency (but should not fall under the discriminatory or difficult conditions as referred in Rule 32), i.e. Valid NTN/STRN, ISO Certification, incorporation certificate or registration with relevant professional statutory body, security clearance for sensitive projects or sites, OEM or authorized dealership (if necessary), undertaking for conflict of interest (especially in case of Consultancy Services), Legal existence of JV Partnership in case of bidding by JV or requirement for some nationalities as per the Policy of Federal Government etc. (This may be precondition for issuance of bidding documents).
- b. **Qualification:** Qualification means the bidder has the required capacity, capability and expertise to perform that particular assignment e.g.;
 - (i) Production/manufacturing ability, Audited Quality Management System etc. in case of goods (with an exception for small items);
 - (ii) Sufficient suitably qualified human resources, general or specific experience etc. for performing particular assignment in case of services;
 - (iii) Suitably qualified manpower, equipment, machinery and financial capacity etc. for engineering works.

Muhammad Zubair
21/08/2020
MUHAMMAD ZUBAIR
Director General (M&E)

Note:

- (i) It is pertinent to mention over here that qualification is a broader term and may cover the elements of eligibility in itself. For small items or small non-consultancy services or small maintenance works, only eligibility may suffice.
- (ii) Expertize may be determined on the basis of general & specific experience and past performance.

c. Substantial Responsiveness: A substantially responsive bid is one which conforms to all the terms and conditions specified in the General Conditions of Contract (GCC), Special Condition of Contract (SCC), format and contents of the proposal(s) without any such material deviation or reservation that may affect in any substantial way the scope, quality, or performance of the products, services or works; however, clarification may be sought or accepted by the Procurement Evaluation Committee in accordance with the provisions of Rule 31.

B. SECOND PART OF THE RULE 2(1) (h):

The second part of the Rule consists of following selection techniques:-

a. Highest Ranked in Cost Based (or Least Cost) Selection:

After meeting all the above referred requirements of eligibility, qualification and substantial responsiveness as referred in Part-I of Rule 2(1) (h), the bid in compliance with all the mandatory (technical) specifications/requirements and/or some qualification/quality threshold (if any), and having lowest cost or financial proposal shall be considered highest ranked bid based on inverse proportion calculations. However, as per the best international practices, the bidder(s) should be required to submit independent price determination mechanism so as to avoid any chance of performance failure (due to low ball bid just to win the competition) or abnormally high prices.

b. Highest Ranked in Quality Based Selection:

After meeting all the above referred requirements of eligibility, qualification and substantial responsiveness as referred in Part-I of Rule 2(1) (h), the bid in compliance with all the mandatory (technical) specifications/requirements and attaining highest marks in the Technical Evaluation considering all other qualitative and/or quantitative parameters (or point rated criteria) for technical proposal(s) as prescribed in the Evaluation Criteria set forth in the bidding documents such as working methodology, implementation plan, resource allocation, additional functionalities, risk management approach, knowledge transfer techniques, post implementation methodology etc. shall be treated as highest ranked bid. Later on the financial proposal of highest ranked bidder shall be opened, however, in case of failure to proceed further with such a bidder, the procuring agency may resort to second highest bidder and so on.


21/08/2020
MUHAMMAD ZUBAIR
Director General (M&E)

Probable reasons of failure to proceed further may be:

- (i) Failure in Contract Negotiations as referred in Regulation-10 of Procurement of Consultancy Services Regulations-2010;
- (ii) Incompatible Financial Proposal due to:
 - Abnormally high prices; or
 - Impracticable and abnormally low prices

Quality Determining Parameters in Case of Goods:

In addition to the mandatory requirements and mandatory technical specifications of the goods, following parameters may be evaluated to determine the quality of the goods:

- Additional Functionalities (or priority requirements);
- Factors of sustainable procurement (e.g. environmental friendly products);
- Efficiency of the machinery having minimum losses;
- Additional safety features;
- GPS facility in case of portable equipment;
- Closeness to the upper/lower ceiling for such specification having certain ranges;
- Lower value of Least Count Error;
- Closeness to acceptable vibration levels;
- Earthquake related OBE (Operation Basis Earthquake) and SSD (Safe Shut Down) Earthquake features;
- Incidental services such as installation and/or commissioning facilities offered by the manufacturer/authorized dealer;
- Longer Warranty Period, after sale service, and/or post installation/commissioning support; and/or
- Testing facilities at site etc.

Note:

- (i) In case of floating RFP or Tender without passing through any shortlisting process i.e. EOI or Prequalification process, Quality Based Selection shall also have some weightage to other qualification parameters such as Capacity and Capability, previous general/specific experience etc. of the bidder.
- (ii) Quality based selection (may) include(s) Qualification in itself whether or not passing through any shortlisting process.

c. Highest Ranked in Qualification Based Selection:

This technique is normally used worldwide for hiring of individual consultants. Their selection is based on the basis of their academic qualification, expertise, capacity and capability to perform the particular assignment for which he is being hired. The candidate obtaining highest marks shall be treated as highest ranked.

d. Highest Ranked in Quality & Cost Based Selection:


In such combination, there shall be some specific weightage of both the technical proposal (containing features as prescribed in Para-2(B) (b) above) and financial proposal. The highest ranked bid shall be declared on the basis of combined evaluation.

MUHAMMAD ZUBAIR
Director General (M&E)

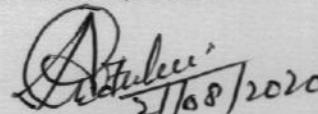
e. Highest Ranked in Qualification & Cost Based Selection:

In such combination, there shall be some specific weightage of both qualification parameters and financial proposal submitted by the bidder (e.g. individual consultant). The highest ranked bid shall be declared on the basis of combined evaluation.

3. In the light of explanation given above, a bid or proposal is declared substantially responsive after meeting the eligibility or qualification parameters/criteria alongwith the terms and condition of substantial responsiveness defined in the bidding documents, as per the part-I of Rule 2(1)(h); whereas in the second round, comprehensive evaluation shall be made considering all the predefined mandatory (technical) specifications/ requirements and all other qualitative and/or quantitative parameters (or point rated criteria) for technical proposal(s) to determine the bids technically qualified (or responsive) in conformity with the provisions of Rule-36 and finally to determine its ranking as per the selection technique (with an exception of qualification based selection where technical proposal may not be required). However, due diligence and justification is essential for adopting the selection technique, as well as for requiring the general/specific experience for determining the expertise for particular assignment(s).

4. The term "technically qualified/responsive" based on the parameters of technical proposal should not be confused with qualification parameters (such as capacity, capability and expertise) and substantial responsiveness.

5. Further guidelines on "Most Advantageous Bid" & effective implementation of Rule-29 (for determining an appropriate and unambiguous evaluation criteria) may be issued for further guidance and clearance please.



27/08/2020

(Engr. Muhammad Zubair)
Director General (M&E)
(Each page signed)

Mr. Sheraz Manzoor Haider
Director General (B&A)
Auditor General of Pakistan
Constitution Avenue
Islamabad.

CC:

- (i) The Secretary Finance, Finance Division, Islamabad
- (ii) The Secretary Cabinet, Cabinet Division, Islamabad
- (iii) All Secretaries to the Ministries / Divisions
- (iv) Chairman/CEOs of Federal Regulatory Authorities
- (v) Chairman, Professional Statutory Bodies
- (vi) Director (MIS), PPRA with the request to upload at PPRA's Website.