

PUBLIC PROCUREMENT COMMISSION

**REVIEW OF TENDER PROCEEDINGS-Tender for the Provision of Uniform Related
Materials and Ready-Made Uniforms for Regions No. 1, 7, 8 and 9
Ministry of Indigenous People's Affairs (1015/2018/17)**

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1.0 BACKGROUND

The Public Procurement Commission (the Commission) received a letter dated

2.0 METHODOLOGY

The Commission reviewed the documents received from the Complainant, the Permanent Secretary, Ministry of Communities(MOC) and the National Procurement and Tender Administration(NPTA). The Commission also interviewed the following persons:

1. The Complainant,
2. the Permanent Secretary, Mr. Emil McGarrell who was also the Coordinator of the Evaluation Committee appointed to evaluate the tender under review,
3. procurement staff of the MOC,
4. the Deputy Chairman, National Procurement and Tender Administration Board and;
5. Senior Procurement Officer of NPTA..

3.0 SUMMARY OF FINDINGS

3.1 Tender Process

Using the Open Tender procedure, the Ministry of Indigenous People's Affairs invited bids for the project **the Provision of Uniform Related Materials and Ready-Made Uniforms for Regions No. 1, 7, 8 and 9 Ministry of Indigenous People's Affairs (1015/2018/17)**

The tenders were opened on April 17, 2018 at the National Procurement and Tender Administration Board(NPTAB)). The Commission noted that ten(10) prospective bidders purchased the tender document, but only three submitted bids. These were:

3.2 Complaint

In his letter to the Commission dated August 2, 2018, Mr. Panday claimed that his company's bid was the lowest priced and complied with all bid qualification requirements. Attached to his letter of complaint was a document titled, "Succint Description Concerning the Alleged Breach", which provided details of communication between the Complainant and the Procuring Entity, specifically in respect of two matters of clarification requeste by the Procuring

Entity. The Complainant stated in this document that in response to his request for a review of the award decision, which he had become aware of only as a result of an announcement to the media by the Minister of State, the procuring entity merely stated that bidder No. 3 was evaluated as non-responsive, with no stated reason.

3.3 Review of Tender Documents and Evaluation Report

Subsequent to a review of all documents related to the complaint, the Commission decided that interviews with the Coordinator of the Evaluation Committee would provide additional details about the complaint.

The Complainant attended an interview with the Commission on

3.4 Interview of Coordinator of Evaluation Committee and support staff from the Ministry of Indigenous People's Affairs

The Commission discussed the details of the complaint and explanations provided by the Complainant with the Coordinator of the Evaluation Committee who

4.0 CONCLUSION

As a result of its investigation of the complaint, the Commission concluded the following:

1. The Evaluation Committee misinterpreted the evaluation criterion for experience and unfairly deemed the Complainant as being unresponsive to the requirement.
2. The PPC saw no evidence to support the Evaluation Committee's conclusion that the Complainant, Bidder #3 had provided new information in response to their request for clarification and was therefore not responsive. In fact, there was no need to request clarification of ownership of the equipment since the criterion was fully satisfied by the submission of the sworn affidavit. The subsequent submission of the registration certificates only served to strengthen the

Complainant's testimony of ownership of the equipment. The Registration certificate 22227 that was included with the bidding documents was not relevant and should have been ignored because there was no requirement to provide evidence of experience related to supply of equipment and the document showed clearly that it was owned by the Region 10 RDC. Further, the sworn affidavit did not link the equipment listed to the submitted registration. The clarification did not add value to the evaluation process.

3. There was no reason for the Evaluation Committee to seek clarification from the Complainant in respect of this particular criterion because the submission was complete, whereby the document requested was provided. The subsequent submission of the registration certificates to show ownership of the equipment listed was in response to the query received from the Evaluation Committee and, in effect, was not new information provided by the Complainant to make their bid responsive.
4. The review of the Evaluation Committee by the Procurement Officer at the NPTA and subsequent Report submitted for CABINET's "No Objection" failed to identify the error made by the Evaluation Committee and further flawed the evaluation by including the additional criterion deemed as not being responsive by the Complainant.

5.0 RECOMMENDATIONS

Article 212AA. (1)(h) of the Constitution mandates the Public Procurement Commission to investigate complaints from suppliers, contractors and public entities and propose remedial action. In light of the foregoing, and having regard to the Findings and Conclusions that are detailed herein, the PPC now makes the following Recommendations:

- 5.1** The Evaluation Committee should be very meticulous in its review of the bid documents submitted by bidders. All relevant documents should be included in this review to ensure that bids are fairly evaluated in accordance with the provisions of the Procurement Act.

- 5.2** The Evaluation Committee should not consider evaluation criteria not outlined in the tender documents.
- 5.3** In view of the Commission's assessment that the evaluation of the bid for the provision was unfair, the Evaluation Committee should annul the Report and conduct the evaluation based only on the criteria stated in the tender documents.

August , 2018