

# **Regulations for Evaluation of the Most Advantageous Tender**

*Promulgated on May 17, 1999*

*Amended on May 7, 2003*

## **Article 1**

This Regulations is prescribed pursuant to paragraph 4 of Article 56 of the Government Procurement Act (hereinafter referred to as the “Act”).

## **Article 2**

Prior to conducting procurement on the basis of awarding to the most advantageous tender, an entity shall justify that the subject matter of procurement concerns heterogeneous constructions works, properties or services, and thus it is inappropriate to award contract to the lowest tender pursuant to subparagraph 1 or 2 of paragraph 1 of Article 52 of the Act.

The procurement of heterogeneous construction works, properties or services referred to in the preceding paragraph means that where a procurement contract is carried out by different suppliers, it can result in discrepancies in technology, quality, function, efficiency or the implementation of commercial terms, etc.

## **Article 3**

The term “overall full score” as used in this Regulations shall refer to the summed total of the full scores assigned to each evaluation criterion enumerated in the tender documentation.

The term “overall evaluated score” as used in this Regulations shall refer to the summed total of the scores on each of the evaluation criteria awarded by the procurement evaluation committee (hereinafter referred to as the “evaluation committee”) after evaluating a supplier’s tender in accordance with the scores assigned to the evaluation criteria enumerated in the tender documentation.

The term “ranking” as used in this Regulations shall refer to the ordinal sequence awarded by the evaluation committee after evaluating a supplier’s tender in accordance with the importance or weightings assigned to the evaluation criteria enumerated in the tender documentation

## **Article 4**

Where the award of contract is to be on the basis of the most advantageous tender, an entity shall, unless otherwise prescribed by laws or regulations, specify in the tender documentation the following:

1. the supplier who offers the most advantageous tender that satisfies the requirements of the tender documentation will be selected as the winning supplier;
2. evaluation item and evaluation standards, and if applicable, sub-items thereof;
3. the method for selecting the most advantageous tender;
4. only those suppliers whose tenders have been reviewed as satisfying the requirements of the tender documentation may become a candidate of negotiation and evaluation;
5. where negotiations may be conducted, the items that may be modified during such negotiations;
6. where circumstances exist to eliminate a tender or not to admit a tender into evaluation, such circumstances;
7. where a tender is required to be labeled or paginated separately for each evaluation item, such circumstances; and
8. any other matters as necessary.

## **Article 5**

The evaluation items and sub-items for selecting the most advantageous tender may be chosen from the following:

1. technology: such as functionality of technical specifications, professional or technical manpower, professional expertise, capability of timely contract performance, technical feasibility, equipment resources, training capability, maintenance capability, construction methods, economy, standardization, degree of slimness, requirements on operational environment, degree of environmental protection, landscape preservation, conservation of cultural heritage, natural and ecological conservation, consideration given to the needs of less-privileged users, completeness of plan, degree of understanding of the subject procurement, etc.;
2. quality: such as quality control capability, inspection and testing methods, error detection rate, ease of operation, ease of maintenance, precision, safety, stability, reliability, esthetic attractiveness, comfort of use, failure rate,

- sturdiness, durability, service life, etc.;
3. function: such as production capacity, handiness, versatility, expandability, compatibility, adaptability, special effects, etc.;
  4. management: such as organizational structure, workforce qualifications and composition, work interface handling, schedule management, management of procurement operations necessary for contract performance, site management, safety and health management, security maintenance, accounting system, financial condition, project management capability, subcontracting plan, etc.;
  5. commercial terms: such as contract period, term of payment, supplier's remittance promise to entity, maintenance service schedule, after sale service, warranty period, document preparation, etc.;
  6. past achievements in contract performance: such as record of contract performance, experience, track record, compliance with regulatory requirements, user evaluation, efficiency in timely contract performance, record of cost control for contract performance, employee-employer relations, instances of man-caused disastrous incidents, etc.;
  7. price: such as the correctiveness, completeness, and reasonableness of total tender price and its composition, circumstance of tender price exceeding budget amount or government estimate, discount, cost control measures for contract performance, subsequent utilization or operating costs, maintenance costs, residual value, scrap handling expense, cost effectiveness, etc.;
  8. financial plan: such as projection of operational revenues and expenses, fund raising plan, annual cash flow, investment benefit analysis, etc., for projects opened to private investors to build or operate referred to in Article 99 of the Act; and
  9. any other matters related to the function or benefit of procurement.

## **Article 6**

An entity shall determine the evaluation item and sub-item referred to in the preceding article in accordance with the following requirements:

1. relevant to procurement objectives;
2. relevant to the purpose of selecting the most advantageous tender;
3. relevant to distinguishing the differences among suppliers;

4. clear, reasonable and feasible; and
5. non-repetitive in determining sub-item.

An entity shall not prescribe the evaluation item and sub-item and their evaluation standards for the purpose of placing any particular suppliers in an advantageous or disadvantageous position.

#### **Article 7**

The score or weighting assigned to an evaluation item or sub-item by an entity shall be able to suitably reflect the importance of that item or sub-item.

#### **Article 8**

An entity conducting tender evaluation shall carry out the scoring of the evaluation item and sub-item in accordance with the following requirements; scoring guidelines, if established, shall be specified in the tender documentation:

1. where scoring is based on an interval scale representing various degrees of difference, the difference represented by each scoring interval shall be clear;
2. where scoring is based on a supplier's conditions of strength and weakness, there shall be a reasonable correlation between the difference of such conditions and their scores; and
3. scoring shall proceed in an objective manner, take no account of factors irrelevant to procurement objectives, and avoid a scoring guideline basing upon the content of part or all of suppliers' tenders.

Where an entity prescribes a ranking evaluation method for evaluation item and sub-item, the provision set out in the preceding paragraph shall apply *mutatis mutandis*.

#### **Article 9**

Where a fix price or rate is not prescribed in the tender documentation and a supplier has to state a tender price in its tender, the tender documentation shall prescribe that suppliers shall enumerate in detail the content of the price offer in their tenders, and that such information shall be included in evaluation.

Where a fix price or rate is prescribed in the tender documentation, the tender documentation may still prescribe that suppliers shall enumerate in detail the composition of the content of that price or rate, and that such information shall be included in evaluation.

## **Article 10**

To assist members of the evaluation committee in gaining in-depth understanding about a supplier's performance with respect to each evaluation item, the process of selecting the most advantageous tender may include supplier presentation and on-site questioning and answering.

The supplier presentation and on-site questioning and answering referred to in the preceding paragraph shall be relevant to the evaluation item, and if listed as an evaluation item, shall account for a score or weighting of not more than 20%.

The presentation referred to in paragraph 1 shall not result in changing the content of a supplier's tender. Where a supplier present additional information for a change or as a supplement, that information shall not be included in evaluation.

Where a tenderer does not attend the presentation and on-site questioning and answering, the validity of its tender shall not be affected.

## **Article 11**

An entity shall carry out the selection of the most advantageous tender in accordance with one of the following approaches, and this shall be specified in the tender documentation:

1. overall evaluated score method;
2. price per score point method;
3. ranking method; or
4. any other approaches as approved by the responsible entity.

In multi-step evaluation and elimination of unqualified suppliers, the methods for evaluation referred to in the preceding paragraph shall not proceed from a step accounting for less score or weighting, and in principle, shall be pursued in two steps.

## **Article 12**

To select the most advantageous tender using overall evaluated score method, one of the following approaches shall be adopted and be specified in the tender documentation:

1. where price is included in scoring, the tender that has attained the highest

overall evaluated score and that has also been determined by the head of the entity or the concurrence of the majority of the evaluation committee shall be the most advantageous tender;

2. where price is not included in scoring, the overall evaluated score and price of a supplier shall be taken into comprehensive consideration, and the tender whose overall performance has been determined as the best by the head of the entity or the concurrence of the majority of the evaluation committee shall be the most advantageous tender; or
3. where payment is based on a fixed price specified in the tender documentation, the tender that has attained the highest overall evaluated score and that has also been determined by the head of the entity or the concurrence of the majority of the evaluation committee shall be the most advantageous tender.

### **Article 13**

To select the most advantageous tender using price per score point method, price shall not be included in scoring, and the tender that has the lowest quotient of price divided by overall evaluated score shall be the most advantageous tender.

### **Article 14**

Where the most advantageous tender is selected pursuant to the approaches set out in the preceding article or subparagraph 1 or 3 of Article 12, and where more than two suppliers have attained the same highest overall evaluated score or lowest quotient of price divided by overall evaluated score and are eligible to be the candidate of an award, the supplier of the most advantageous tender may be determined in accordance with one of the following approaches. However, if the number of comprehensive evaluation has reached the three times limit as set out in Article 56 of the Act, the most advantageous tender shall be determined directly by drawing lots.

1. A comprehensive evaluation shall be carried out one more time on suppliers with equal overall evaluated scores or quotients, the one that attains the highest overall evaluated score or the lowest quotient of price divided by overall evaluated score shall be the winning supplier. When the overall evaluated score or quotient is still equal after such comprehensive evaluation, the winning supplier shall be determined by drawing lots.
2. The supplier which attains a higher score on the evaluation item that has been assigned the highest score shall be the winning supplier. If the scores are still equal, the winning supplier shall be determined by drawing lots.

### **Article 15**

To select the most advantageous tender using ranking method, one of the following approaches shall be adopted and be specified in the tender documentation:

1. where price is included in ranking, the tender that ranks first and that has also been determined by the head of the entity or the concurrence of the majority of the evaluation committee shall be the most advantageous tender;
2. where price is not included in ranking, the ranking and price of a supplier shall be taken into comprehensive consideration, and the tender whose overall performance has been determined to rank first by the head of the entity or the concurrence of the majority of the evaluation committee shall be the most advantageous tender; or
3. where payment is based on a fixed price specified in the tender documentation, the tender that ranks first and that has also been determined by the head of the entity or the concurrence of the majority of the evaluation committee shall be the most advantageous tender.

Members of the evaluation committee shall conduct ranking evaluation in accordance with one of the following approaches, and this shall be specified in the tender documentation:

1. Against each evaluation item, a supplier is evaluated and awarded a score, which is then converted to a ranking, and the summed total of all such rankings shall be used to determine the supplier's ranking;
2. Against each evaluation item, a supplier is evaluated and awarded a ranking, which is then multiplied by the weighting of the item, and the summed total of all such weighted rankings shall be used to determine the supplier's ranking

Where an entity selects the most advantageous tender pursuant to subparagraph 1 or 3 of the first paragraph, and where more than two suppliers are ranked first and eligible to be the candidate of an award, the provision set out in the preceding article shall apply *mutatis mutandis*.

## **Article 16**

Where the selection of the most advantageous tender involves scoring, the following shall be specified in the tender documentation;

1. the scores assigned to each of the evaluation item and, if applicable, their sub-item;
2. overall full score and corresponding threshold score, or the threshold score for each of the evaluation item; and

3. any supplier whose overall evaluated score fails to pass the threshold score shall not be a candidate of negotiation or the most advantageous tender.

Where a supplier that fails to pass a threshold score on any individual sub-item shall not be a candidate of negotiation or the most advantageous tender, such circumstance shall be specified in the tender documentation.

Where price is included in scoring, the proportion of which in relation to the overall full score shall be not less than 20% and not more than 50%.

## **Article 17**

Where the selection of the most advantageous tender involves ranking evaluation, the following shall be specified in the tender documentation:

1. the weightings assigned to each of the evaluation items and, if applicable, their sub-item;
2. the circumstances of a passing or failing status with respect to the result of ranking evaluation on the whole or on each of the evaluation item; and
3. any supplier that fails to attain a passing status as a result of ranking evaluation shall not be a candidate for negotiation or the most advantageous tender.

Where a supplier that fails to attain a passing status on any individual sub-item shall not be a candidate for negotiation or the most advantageous tender, such circumstance shall be specified in the tender documentation.

Where price is included in ranking evaluation, the weighting of which in relation to all of the evaluation item shall be not less than 20% and not more than 50%.

## **Article 18**

In open tendering procedures and limited tendering procedures, the scores or weightings assigned to the evaluation item and sub-item shall be specified in the tender documentation. As for multi-step submission of tenders, such shall be specified in the tender documentation of the first step.

For selective tendering procedures in which qualification is one of the evaluation item, the scores or weightings assigned to qualifications-related item shall be specified in qualification evaluation documents; the scores or weightings assigned to other evaluation item and sub-item shall be specified in the tender documentation of the step following qualification evaluation.

## **Article 19**

The evaluation committee shall conduct the selection of the most advantageous tender in accordance with the evaluation item, sub-item, and scores or weightings thereof, without making any changes.

## **Article 20**

Subsequent to determining the most advantageous tender, an entity shall make an announcement on tender award notice regarding the tender price and overall evaluated score or the result of ranking evaluation of the most advantageous tender. Furthermore, the minutes of the evaluation committee and the summary table compiled by the entity following evaluation by the committee members shall, except those involving individual supplier's trade secrets, be made available such that tenderers may apply for viewing, transcribing, duplicating or photographing.

Subsequent to determining the most advantageous tender, an entity shall notify those tenderers who satisfy the requirements set out in the tender documentation but are unable to win the tender of such things as the tender price and the overall evaluated score or the result of ranking evaluation of the most advantageous tender, and for each unsuccessful tenderer, the respective overall evaluated score or result of ranking evaluation.

## **Article 21**

Where negotiations are conducted pursuant to paragraph 1 of Article 56 and Article 57, all the tenderers satisfying the requirements set out in the tender documentation shall be invited for separate negotiations. Furthermore, those tenderers participating in the negotiations shall be given an opportunity to modify, according to negotiation results, the part of their tenders relevant to the items under negotiation, and to re-submit their tenders within a fixed time period. The same shall apply if the price will require adjustment in accordance with the items under negotiation.

An entity shall conduct a comprehensive evaluation once more on the re-submitted tenders referred to in the preceding paragraph. However, those items in the re-submitted tenders that are irrelevant to or not affected by the negotiations shall not be evaluated, and in which case, the content previously submitted shall be based.

## **Article 22**

Where the award of contract is made to the most advantageous tender, an entity may, in principle, proceed without setting a government estimate. Where there is a government estimate, and that a supplier's price offer exceeds such estimate and needs to be reduced, the entity shall request that supplier to do so during negotiation and in

which case, the provision set out in paragraph 2 of Article 53 shall also apply.

### **Article 23**

In the process of selecting the most advantageous tender, an entity shall take minutes at each meeting, stating the following:

1. the organization of the evaluation committee, personnel assisting in the evaluation and their work assignments;
2. evaluation method;
3. names of tenderers;
4. summary of the evaluation process;
5. evaluation result of each tenderer;
6. where the most advantageous tender is selected, the reasons; and
7. opinions that individual committee members request to include in the minutes;

Minutes of negotiations, if available, shall be appended to the evaluation minutes.

### **Article 24**

This Regulations shall take effect from the date of promulgation.

*Note: In case of discrepancies between the Chinese version and this English version, the Chinese version shall prevail.*