UNIVERSITY OF KWAZULU-NATAL
INYUVESI YAKWAZULU-NATALI

# TENDER PROCEDURES FOR THE ACQUISITION OF GOODS AND/OR SERVICES

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| Name of document: | Tender Procedures for the Acquisition of Goods and/or Services | |
| Reference number:<br>*(supplied by Office of the Registrar)* | E01/1107/13 | |
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| Approved by: | ***Structure***: EMC | ***Date***: 11 July 2013 |
| Effective date: | 11 July 2013 | |
| Document review date: | | |
| Implementation responsibility: | Chief Finance Officer | |

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## 1. PURPOSE STATEMENT

The aim of this document is to ensure that there are clear guidelines to be followed when running a tender or a request for proposal (RFP).

## 2. INTRODUCTION AND BACKGROUND

A tender process is necessary in order to ensure that UKZN gets **quality** goods or services, at a cost effective **price**, and also in a manner that **is competitive**, but also promotes the social goals of the country.

A **tender** process is used in situations where the requestor knows exactly what good or service they require and the key issue is quality and/or price.

A **request for proposal** generally is used in situations where the requestor is looking for the best value solution to resolve a problem or to deliver a good or service, but is not exactly sure how to achieve it.

A **request for information** (RFI) is often used as a solicitation sent to a broad base of potential suppliers for the purpose of conditioning suppliers' minds, developing strategy, building a database, and preparing for an (RFP), or Tender.

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|---|---|---|---|---|
| **Request for Information (RFI)** | → | **Request for Proposal (RFP)** | → | **TENDER** |

The requestor does not always have to go through all the processes outlined. They can go straight into (RFP) and contract there from, or go straight into a tender process.

When suppliers are invited to submit bids to provide goods or services, the University of KwaZulu-Natal (UKZN) is not making an offer to procure. Request for Information (RFI), and a Request for Proposal (RFP) is not an offer to purchase, order or contract.

The service provider or supplier, in responding to these requests, makes an offer to supply goods or services to the UKZN.

**IMPORTANT**: Even though the document consistently refers to tender documents, the same processes will be required for an RFP.

## 3. DEFINITION OF TERMS

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|---|---|
| Budget Controller | Any person to whom control of the University budget or part thereof has been delegated. |
| Budget Holder | Any member of the Executive to whom any budget has been allocated in writing by the University.<br><br>Person who is delegated the responsibility to officially sanction the tender. |
| Chief Finance Officer | The Chief Finance Officer of the University. |
| College | A cluster of cognate schools in the academic sector, and Support and Students Services Colleges |
| Director | Director of College Professional Services or the Support Services Director (as applicable) |
| Executive | Members of the University Executive Management, comprising the Vice-Chancellor and Principal; specified Deputy Vice-Chancellors; the Chief Finance Officer; Executive Directors and the Registrar, all of whom are *de facto* budget holders. |
| Financial Manager | The financial manager of the College/Support Division responsible for financial administration. |
| Multi-Functional Sourcing Team (MFST) | Comprises of subject matter experts from different functional divisions brought together to achieve total cost of ownership. |
| Tender Value | The total cost of the product and/or services (total cost of ownership, including vat) |

## 4. SCOPE

The tender procedures on the acquisition of goods/services would apply to all who intend to procure goods/services on behalf of the University where the transaction value is likely to be greater than or equal to R500 000 (Inclusive of Value-added Tax).

A transaction consisting of a series of payments (e.g. leases of movable property), in a given period, to the extent that the aggregated amounts exceeds R500 000 (or whatever threshold is approved by the Finance Committee), is subject to tender processes. In this regard, it is recommended that for transactions of a repetitive nature, a tender process is run once in three years, in order to avoid the bottlenecks of having to go on tender each time.

It constitutes an irregular expenditure to split a transaction in order to avoid going on tender, e.g. a purchase of two motor vehicles in a space of a few weeks, each worth R260 000 (total R520 000 > R500 000).

## 5. PRINCIPLES

**5.1** The following principles are critical in order to ensure that the process is credible:

- fairness (unbiased)
- equitable (impartial)
- transparent (candid, easy to understand)
- competitive, and
- cost-effective (value of money)

**5.2** The tendering process must be conducted in an ethical and unambiguous manner.

## 6. TENDER PROCEDURE

### 6.1 Bidding Procedures

There are essentially five stages in the bidding process as follows;

- Determination and approval of the specifications
- Inviting bids
- Receiving bids
- Evaluating bids
- Approval and Award of Tender

The MFST is responsible for the full process of specifications, evaluation and the adjudication of the bids.

**Stage 1: SPECIFICATIONS**

The key issue here is to produce specifications which are not biased towards a particular supplier.

- Prior to advertisement, the needs of the respective College, School, Division or Department are ascertained.
- The School/Division prepares a detailed document that provides complete information of what goods or services are required or, in the case of projects, what projects are to be undertaken.

The Director of College Professional Services or relevant Support Services Director and/or Financial Manager responsible for finances of the respective portfolios (College or Support Services) receives this information and recommends a Multi-Functional Sourcing Team (MFST) to the Budget Holder, in consultation with the relevant procurement office of the College/Division.

The Budget Holder will formally appoint the MFST in writing (it is not necessary to do this each time an MFST is put together, the appointment can be for a period).

**Refer to Appendix 1 – "Functions of and the Code of Conduct of the MFST).**

**Stage 2: INVITING BIDS**

Bidding documents need to be clear and comprehensive enough for the MFST to make decisions.

## 6.2 Advertisement

The advertisement must include the following information;

1. The tender number
2. Nature and purpose of the tender
3. Closing date of the tender
4. Indications of the compulsory briefing session/s, venue and the date of the session/s
5. Contact details of person/s responding to queries
6. Address where the tender is to be delivered
7. Prequalification criteria
8. Disclaimer

All costs incurred for the placement of the advertisement will be borne by the Budget Holder, or in the case of a University-wide project, by the Project Sponsor. The closing date must be at least 16 days (including weekends) after the date of publication of the advertisement.

Advertisement should be in commonly read newspapers nationally and/or in the region. The requestor may also advertise in the Government Gazette. The tenders must also be readily accessible on the UKZN website.

### 6.3 Comprehensive Bid Document

The following information is included (but not limited to) in the bid document;

6.3.1 Brief overview and reason for the acquisition of goods/services

6.3.2 Project Detail

6.3.3 Request for company profile and details

6.3.4 Prequalification/Mandatory requirements (**very important**)

6.3.5 Special conditions

6.3.6 Evaluation procedure and criteria

6.3.7 Declaration of Service Providers/suppliers past supply chain management practices

6.3.8 Broad-based Black Economic Empowerment self-assessment questionnaire

6.3.9 Pre-construction health and safety questionnaire (where applicable)

**Refer to Annexure 2 for a standard bidding document template**

**Stage 3: RECEIVING THE BIDS**

### 6.4 Procedure on Receiving Tenders

6.4.1 Tenders may be either posted or delivered to the office of the Director of College Professional Services or the Support Services Director or the Financial Manager (whichever is applicable) and as listed in the advertisement. Delivered tenders would have to be placed in the tender box. **Tenders submitted after the closing date will not be considered**. When tenders are received by post, the date on which the tenders reaches the offices of the designated official has to be recorded in the tender register and the tender has to be placed in the tender box immediately. Mailed tenders should be marked clearly to prevent tenders from being opened accidentally before the closing date and time.

6.4.2 When tenders are delivered, the date of delivery and names of the deliverer and receiver need to be recorded in the **tender register.** The receiver then has to place the tender in the tender box in the presence of the deliverer.

6.4.3 Tenders are opened at the time and venue specified by UKZN. In the interest of transparency, tenderers are invited to the opening session. An attendance register is maintained.
At this session, once the tenders have been opened, the names of the tenderers and where applicable the amounts tendered are read out.

### 6.5 Briefing Session of Prospective Service Providers/Suppliers (if necessary)

The aim of the briefing session is to provide further information pertaining to the University's requirements and any other information that will assist potential service providers/suppliers to submit their tenders.

The convening of the briefing session will depend on the complexity of the goods and/or services procured. It is usually held for large and complex contracts such as the construction of a building.

At this session, a comprehensive bid document that has been compiled by the MFST is purchased by the potential service providers/suppliers at a cost of at least R500 (to be paid to the University's cashier).

**Stage 4 : EVALUATION OF TENDERS**

Tenders received are then evaluated in accordance with the specified criteria as listed in the bid document by the MFST. Members of the MFST must, prior to evaluation of a tender, disclose any conflict of interest. If there is a conflict of interest, they should recuse themselves at the time of the evaluation of the tender concerned.

Points are allocated in terms of the evaluation criteria as specified and the accumulation of points are based on the extent to which the technical solution and services proposed meet UKZN's requirements and are financially competitive.

Members of the MFST must sign a confidentiality form in which they undertake to retain confidentiality with respect to the deliberations of the MFST.

### 6.6 Prequalification/Mandatory Requirements

UKZN has a set of defined minimum prequalification/mandatory criteria that are listed in the bid document. In order to qualify, potential service providers/suppliers must meet all requirements.

The requestor and the MFST will have to use their discretion, as the requirements for a R20m tender may differ significantly from that of a R600 000 tender. Apart from the statutory requirements (tax certificates etc.) which are compulsory, the Requestor and the MFST may, for example, decide that for a R600 000 tender, companies may not be compelled to submit 3 years annual financial statements as 1 year may suffice.

The prequalification evaluation will be conducted by the MFST. UKZN reserves the right to disqualify the potential service provider/supplier where there is a failure to comply or, for any reason whatsoever, UKZN is unable to verify whether the prequalification has been met. The prequalification evaluation is performed to shortlist companies meeting the minimum requirements and does not form part of the overall evaluation process for selection.

The evaluation process is structured in accordance with the value of the tender as follows;

**The value of the tender is greater than or equal to R500 000 but less than R1 million** – one stage process

Potential service providers/suppliers will be assessed in terms of experience in quality and functionality, price and preferential procurement. This will be a **one-stage process** that includes the assessment based on an 80/20 rule whereby 20% is allocable to preferential procurement – Broad-Based Black Economic Empowerment.

**The value of the tender is in excess of R 1 million –** two stage process

The assessment of potential service providers/suppliers will be assessed in two stages as follows;

**Stage One**: Potential service providers/suppliers will be assessed in terms of experience in **quality and functionality.** Those potential service providers/suppliers scoring 70% and above will progress to stage two.

**Stage Two**: Assessment will be done in accordance with the requirement of preferential procurement regulations i.e. Price evaluation and Preference evaluation (90/10) rule whereby 10% is allocable to preferential procurement – Broad-Based Black Economic Empowerment.

Two stage bidding process may be used for turnkey (A **turnkey** or a **turnkey project** is a type of project that is constructed so that it could be sold to any buyer as a completed product) contracts for large complex plants or works of a specialized nature, when it may be undesirable or impractical to prepare complete detailed technical specifications in advance.

**Additional requirements to the Tender Document or Tender Process**

Any requirements to the content of the tender document or the tender process must be approved by the Multi-Functional Sourcing Team. The amendments must be subject to legal validity and the MFST must accordingly inform all potential service providers of the amendments thereof. Where the amendments to the tender document/s or processes have an impact on the deadline dates for the submission of deliverables by the prospective service providers, an extension of the deadline date must be approved by the MFST.

The MFST Chairperson must produce a written report on completion of the tender evaluation making recommendations to the Budget Holder/EMC member/Finance Committee, before the outcome can be announced.

After the award, all unsuccessful tenderers will be formally informed of the successful tenderer. UKZN will provide reasons to unsuccessful tenderers only upon request for this information, through the Promotion of Access to Information Act (PAIA) process.

### (D) Extension of Bid Validity

- The extension of bid validity, if justified in exceptional circumstances should be requested in writing from all bidders before the expiration date.
- The extension should be for a minimum period required to complete the evaluation, obtain necessary approvals and award the contract.

## Stage 5: APPROVAL OF THE TENDER

| Transactions (including vat) | Chair | Who Approves |
|---|---|---|
| R500 000 > X > R13.75m | Budget Holder Delegate | Budget Holder |
| R13.75m > X > R37.5m | Budget Holder | EMC Member other than budget holder |
| X > R37.5m | EMC member other than budget holder | Budget Holder and Finance Committee |

## EXPANSIONS AND VARIATIONS AGAINST THE ORIGINAL CONTRACT

It is recognised that in exceptional cases, the budget holder may deem it necessary to expand or vary orders against the original contract.

Contracts may be expanded or varied by not more than 20% or R20m (including taxes) for construction related goods, works and/or services and 10% for all other goods and/or services of the original value of the contract, whichever is the lower amount.

A deviation in excess of these thresholds will only be allowed subject to the prior written approval of the CFO or his delegated authority.

**Key consideration**: variations should be necessary by exception and not of the sort that should have been anticipated at the beginning. The critical point is to manage the perception that the scope was deliberately suppressed in order to create a sole supplier circumstances later on.

## 7. WAIVER OF TENDER PROCESSES

There may be instances whereby circumstances preclude a tender process. A waiver of tender must be requested and approval accordingly obtained from the Budget Holder/CFO/VC/EMC/Finance Committee. It is important to note that the waiver must be ascertained and approval obtained prior to the commencement of the tender process.

**Refer to the Financial Delegations for approval framework.**
A waiver of tender may be required in the following circumstances;

### 7.1 Emergency Situations

Where the needs of the business precludes the use of a competitive process, for example, acquiring goods or services in an attempt to avert a strike action or prevent major disruption to operational ability. It must be noted that urgency arising from procrastination does not constitute an emergency.

### 7.2 Sole Source

Sole source refers to situations where only one supplier, to the best of the requestor's belief or/and knowledge, based upon research (i.e. conducting marketing research) is capable of delivering the required product or service. Similar products may exist, but one supplier for reasons for expertise, and/or standardisation, quality, compatibility, with existing equipment is the only source that is acceptable to meet the specified need.

**Important** :The fact that a supplier is a sole one, does not necessarily mean that the service or product is the only one that can be used.

A comprehensive document is required to be prepared by the School/Division requesting this service or supply and formally approved by the Executive Budget Holder. Attached is a template to be used to justify using a sole supplier.

**REFER to Annexure 3 for the justification form, and note that there are two forms, one for procurement below R375 000 and the other for procurement above.**

### 7.3 Limited bidding (Closed Tenders)

Limited bidding refers to those situations where a supplier is taken from a list of preferred suppliers. This is common in the area of consulting. It is important to note that a competitive process should have been undertaken before a shortlist is prepared. Generally, the period should not exceed three years, unless it is construction, where it can go as far as five years.

There could be instances where restrictions on who to transact with may as a result of a university policy, e.g. a requirement to deal only with say AAA or BBB rated banks, or a requirement by a funder to deal only with the top 4 audit firms, etc.

## 8 FORMAL WRITTEN CONTRACT

A formal written contract must be entered into between the University and the successful tenderer where the amount of the tender is equal to or greater than R500 000.

## 9 APPEAL

In the event of an MFST member/s being unhappy about the process, they should in writing appeal to the CFO, indicating the specific areas where they felt that the process was not followed. This should happen within 7 working days of the MFST meeting having made a recommendation.

## 10 LACK OF DELIVERY/POOR PERFORMANCE

Poor service delivery or the poor quality of products will constitute a breach of the contract.

**IMPORTANT:** It is not automatic that the contract will be awarded to the second best. Legal opinion will be necessary.

## 11 CENTRAL/COLLEGE MANDATE

Tenders with a value less than R5 million per tender (the determination of the threshold amount is to be based on reasonable estimates) can be facilitated at the College/Support Sector until such time the procurement process if fully devolved. Support Sector comprises Student Support Services and Support Services.

## 12. INTERNATIONAL SERVICE PROVIDERS

If an international service provider is recommended, there should be sufficient evidence to demonstrate that local service providers were unable to provide the required service/product. It is important to note that the decision to use an international supplier should be an outcome of a tender process where possible.

International service providers are also required to submit tax clearance certificates or equivalent from their country of origin.

Failure to submit the BBEEE details is not a reason good enough to disqualify an international supplier (this should be catered for by not awarding points towards BBEEE requirement).

## 13 IRREGULAR EXPENDITURE

Failure to follow the processes outlined above will constitute an irregular expenditure, i.e. an expenditure incurred without the necessary authorisation as defined in the Financial Regulations.

## Appendix 1 : Functions and the Code of Conduct of the Multi-Functional Sourcing Team (MFST)

This appendix has been formulated to provide guidelines on the mandate, role, function, composition, duties and the conduct of the MFST.

### 1 Functions of the MFST

1.1 The MFST (some of these will be achieved through the procurement officers) shall be responsible for the following;

1.1.1 Drafting the advertisement in terms of the specifications and the selection of the media service.

1.1.2 The MFST shall approve the bid specifications and any form of subsequent revision to the bid specifications.

1.1.3 Conduct briefing sessions for potential service providers/suppliers to inform them of the nature of the goods/service required, specifications, conditions and methodology.

1.1.4 Provide a comprehensive bid document to all potential service providers/suppliers at the briefing sessions.

1.1.5 Attend to potential service provider/supplier queries.

1.1.6 Formally receive tenders and ensure that disqualifications are justified and that valid and accountable reasons/motivations were furnished.

1.1.7 Ensure that the shortlisting of service providers/suppliers is based on prequalification criteria.

1.1.8 Ensure that records of all meetings are maintained.

1.1.9 Evaluate bid documents according to the set evaluation criteria.

1.1.10 Providing a recommendation to the approver (Executive Budget Holder/ EMC/Finance Committee) for acceptance and approval of the selected supplier or service provider.

### 2 Composition of the MFST

The MFST must comprise subject matter experts from different functional divisions brought together to achieve total cost of ownership. These representatives are members of Executive Management, Deans, Directors, Procurement Officers, Financial Managers, Legal Services and other internal experts. In order to meet their obligations, members of the MFST must be familiar with and adhere to all relevant Supply Chain Management (SCM) legislation, policy, guides, practice notes and circulars.

**All members of the MFST are required to familiarise themselves with UKZN's approved Financial Authority Limits document specifically in relation to Supply Chain Management.**

2.1 Chairperson – the appointed Chairperson is a senior official of the University usually the Budget Holder or not lower than peromnes grade 4 or 5 if it his/her nominee.

The University reserves the right to appoint a Chairperson from outside the University, in cases of big or complex tenders, but this can only be done with the prior approval of the budget holder.

2.2 Other members: Subject matter experts as mentioned above. The MFST can also co-opt expertise from outside the University on account of their specialized knowledge. There should always be the specific College Finance Manager present at the tenders, unless the Central Procurement Manager is part of the tender process.

2.3 A secretary must be appointed for record-keeping. This is the responsibility of the procurement officer.

2.4 One member of the Central Student Representative Council (CSRC), nominated by the CSRC, will participate in the tender process, if appropriate / applicable.

2.5 The MFST should convene if at least 60% of its members are present.

2.6 The role of Procurement is advisory. The representative from the Division of Legal Services assumes the role of an observer/advisor and does not actively participate in the evaluation of tenders. In addition, depending on the nature, complexity and the value of the tender, attendance of a representative would remain at the discretion of the Division of Legal Services.

## 3 Duties of some of the members of the MFST

3.1 The Chairperson:

3.1.1 Has a casting vote as well as a deliberate vote;

3.1.2 Retains his/her right as a member;

3.1.3 Can adjourn a meeting;

3.1.4 Rule on points of order which will be final;

3.1.5 May withdraw any proposal or other matters under discussion before it is put to the vote;

3.1.6 Convene extraordinary committee meetings on request;

3.1.7 Shall maintain order during a meeting and ensure that business is conducted in an orderly manner;

3.1.8 Before opening a meeting, ensure that it is properly constituted;

3.1.9 Protect the rights of every member, and the rights and interest of the University.

3.1.10 Vacate his/her seat to another senior member of the MFST, should he/she wish to partake in a discussion in an impartial manner;

3.1.11 Regulate participation in discussions;

3.1.12 Deal with items in sequence of the agenda;

3.1.13 Ensure that members know exactly what they are required to vote on;

3.1.14 Ensure that only one member holds the floor at any one time;

3.1.15 Provide guidance by directing the meeting, but shall not dominate;

3.1.16 Conduct meetings in a formal manner; and

3.1.17 Formulate clearly the decisions to be minuted and sign and approve the minutes after they have been verified for correctness.

3.2 The Secretary shall;

3.2.1 In conjunction with the Chairperson/Vice Chairperson compile an agenda and determine dates of meetings;

3.2.2 Give notice of proposed meetings to MFST members;

3.2.3 Process and distribute all submissions/reports together with the agenda to MFST members at least three working days before the actual meeting takes place;

3.2.4 Minute all decisions taken at meetings;

3.2.5 Ensure that proceedings at meetings are recorded mechanically;

3.2.6 Give written feedback of all decisions taken by the MFST; and

3.2.7 Be responsible for all the administrative tasks of the MFST

3.3 Members shall;

3.3.1 Be fully conversant with the powers and limitations of the MFST as well as all directives pertaining to Supply Chain Management/Procurement Policy

3.3.2 Apply their minds to matters at hand in order to take meaningful and accountable decisions and in the event of doubt or uncertainty, to propose that matters be referred back for clarification;

3.3.3 In advance, furnish written apology should he/she not be able to attend a meeting;

3.3.4 Strive to be punctual for meetings and to stay for the duration of the meeting;

3.3.5 Prepare properly for each meeting by studying the agenda and submissions;

3.3.6 Be familiar with meeting procedures in order to make a contribution in the correct manner; and

3.3.7 Refrain from repetition and duplication of contributions by other members.

3.3.8 Members have a right to;

3.3.8.1 Have advance knowledge of the agenda

3.3.8.2 Submit proposals and participate in proceedings

3.3.8.3 Vote; and

3.3.8.4 Have a dissenting voice and have reasons therefore recorded.

3.4 Co-opted Members/Advisors/Observers

3.4.1 Have the same powers and duties as members but excluding the right to vote on any matter under discussion.

3.4.2 They may present their recommendations/reports to the MFST but not have voting powers.

## 4 Conduct of the MFST

4.1 The integrity of the Procurement/Supply Chain Practitioner must never be compromised and the highest level of professional competence must be maintained. Furthermore, courteous conduct is expected of all MFST members.

4.2 Each member as well as all officials rendering administrative support must sign a declaration form at each MFST meeting. Members are to declare that they will;

4.2.1 accept the confidentiality of the meeting;
4.2.2 not make known anything regarding the meeting, unless officially authorized
4.2.3 not purposefully favour or prejudice anybody.

4.3 The making and receiving of phone calls and the use of smart phones, ipads, laptops or computers to communicate with people outside the meeting is not permitted during the sitting.