

03 February 2023

CLARIFICATION ON THE PROCUREMENT OF SUPPLY AND DELIVERY OF CLINICAL PRODUCTS: G/OAB/CPBN-02/2022

The Central Procurement Board of Namibia (CPBN) has taken note of the public outcry pertaining to the above mentioned bid and wish to clarify misleading information that has been published in the media in recent days.

The CPBN is in the process of procuring clinical products on behalf of the Ministry of Health and Social Services as per section 8 of the Public Procurement Act (PPA) of 2015 (Act No. 15 of 2015) as amended. This bid was advertised through Open Advertised Bidding (OAB) in line with Section 27 (1) (a) (i) read together with Section 28 (2) and 2 (b), which states that "a public entity may confer an advantage or preference to Namibian goods, services, suppliers or persons in the empowerment categories in the case of open advertised bidding process". Furthermore, the bid was for entities incorporated in Namibia with 100% shareholding or equity vested in Namibian citizens.

Bidders were invited to bid for four hundred and twenty-nine (429) different clinical product line items, among these products were condoms and gloves. Ninety (90) bidders participated in this process of which thirty-eight (38) bidders were selected for award as published in the Notice for Selection of Procurement Award dated 11 January 2023.

1. Procurement Process: Notice of Awards

In terms of section 55(4) of the PPA, read with Regulation 38 of the Public Procurement Regulations, Public Entities are required to issue a Notice for Selection of Procurement Award to all the bidders who participated in the bid. Section 55(4A) of the PPA provides unsuccessful or aggrieved bidders with an opportunity to request the Board to reconsider its decision i.e. standstill period of 7 days. Unsuccessful or aggrieved bidders therefore have seven (7) days after receipt of the Notice for Selection of Procurement Award within which they should file any such reconsideration requests.

In terms of the PPA, it should be noted that the Notice for Selection of Procurement Award is not a final award and may change upon the reconsideration of any issues that may be raised by bidders during the standstill period.

CPBN issued and published on its website a Notice for Selection of Procurement Award and the Executive Summary of this bid on 11 January 2023, with the standstill period running from the 12th– 20th January 2023. For this specific bid, a total number of twenty (20) reconsideration requests were received during the standstill period. The CPBN is required in terms of section 55(4A) of the PPA to respond to each reconsideration request within seven (7) days from the date of receipt of such request.

Bidders who have submitted requests for reconsideration were informed that CPBN is in the process of reconsidering their applications based on the merit of each individual application.

Any bidder who is aggrieved after the Board has made a final decision may approach the Review Panel for a review of the procurement process in terms of section 59 of the PPA.

It is important to re-emphasize that this specific bid has not been awarded as at today's date, 3rd February 2023. Final award will only be made after the finalisation of the reconsideration process.

2. Error in the computation of quantities

The PPA makes provision for bidders to seek clarification from a public entity on any issue that might not be clear to them in the Standard Bidding Document (SBD) before the bid closes. The initial quantity of item no 270 (disposable surgeons' gloves) was indicated to be 30 million. This was subsequently clarified under clarification number (39) to reflect the correct quantity which is 3 million. This correction was made for all bidders, however the error was not corrected in the Notice of Selection for Award. The rectification of the oversight shall definitely result in the reduction of the overall award value, inclusive of the 650 million. Furthermore,

the rectification of the error in the quantity of the gloves amounting to 650 million as reflected in the executive summary will significantly reduce.

3. Rate-base procurement contract

It is also important to note that this is a rate-based procurement contract, meaning that in any given financial year, the Ministry of Health shall only issue Purchase Orders within this procurement contracts on a need to use basis and within the maximum of their approved budget irrespective of the estimated contract value.

This provision is provided for in the bidding document for this specific bid (ITB 38.1): The said provision states that "The quantity to buy indicated in the schedule of quantity is an estimate and as such can vary. The Purchaser reserves the right to increase or decrease the quantity of goods originally specified depending on the demand for the products".

4. Conferment of Advantage

CPBN wishes to confirm that some bidders who were more expensive than others were allotted awards on the basis of being local manufacturers in terms of sections 28(2) & 2(b) of the PPA as amended, which empowers CPBN to confer an advantage. This requirement is provided for in the Standard Bidding Document on page 6 under the Invitations for Bids. The Board will reconsider these allocations taking into consideration the merits of the reconsideration requests received in this regard. The outcome of the reconsideration shall be reflected in the Notice of Award being the next step of the procurement process.

The public is hereby informed that the Board has a mandate to carry out due diligence (not evaluation) on any bidder to verify any information submitted in the bidding document at any stage of the procurement process before a final award is made to such bidder.

4. Bid price for condoms

CPBN wishes to clarify the misconception that a condom is costing more than N\$100.00 as reported in the media. The correct information is that bidders were requested to quote on two types of condoms namely:

1. Item No. 152 (42mm condoms) x 100 000 packs of 144 condoms per pack; and
2. Item No. 153 (Latex condoms 52 mm) x 650 000 packs of 144 condoms per pack.

The rates depicted in the Notice for Selection of Procurement Award is for a box containing one hundred and forty-four (144) condoms. For example, if a bidder's unit rate is N\$100, it is a price per pack of 144 condoms, which translates into a cost of N\$0.69 per condom and not the various figures that the media reported on.

No advantage was conferred to any bidder for the manufacturing of condoms as the bidder selected for award was the cheapest at the time of evaluation.

5. Amnics Trading (Pty) Ltd

The media reported that Amnics Trading (Pty) Ltd was awarded bids while the company is only less than two years in operation. This information is factually incorrect as the documentation in CPBN's possession indicates that the company in question was first registered as a CC in 2012 (Reg. CC/2012/6052) before it converted to a PTY on 23 September 2021 (Reg. 2021/0974).

CPBN wishes to re-assure the public that we are committed to deliver our mandate within the prescripts of the PPA as amended and thus ensuring that the bidding process is carried out in a fair, consistent and transparent manner at all times.

ISSUED BY: THE CENTRAL PROCUREMENT BOARD OF NAMIBIA