

KNOWLEDGE CENTRE

Bid Validity

BV:2

Relevant Facts or Questions Asked

A Procuring Entity (PE) sought guidance as follows:

- I. Guidance is being sought as it relates to Extension of Bid Validity. Is the request for an extension of bid validity mandatory?

Advice

1. Requests for an extension of the bid validity period generally arise where the procurement process is not completed within the original bid validity period specified in the bidding documents.
2. Section 44(7) of the Public Procurement Act places an obligation on the head of the procuring entity to take the necessary measures to ensure that the procuring entity obtains any approvals required prior to the expiration of—
 - a. the bid validity period specified in the bidding documents; and
 - b. the period of effectiveness of any bid security which may be required.
3. Consistent with section 44(7) of the Act, Regulation 28 of the Public Procurement Regulations provides that a bid remains valid only for the duration of the bid validity period specified in the bidding documents. Accordingly, a bid is capable of being accepted only during the period for which it remains valid. Where the bid validity period expires without an extension being agreed by the bidder, the bid is no longer capable of acceptance by the procuring entity.
4. Additionally, bidders are under no obligation to agree to an extension of their bid validity period. A bidder may decline a request for an extension of the bid validity period without penalty. Where a bidder declines to extend its bid validity period and any associated bid

security, the bid will expire and the bidder will not be entitled to continue participating in the procurement proceedings beyond that date.

5. Procuring entities should therefore ensure, as far as practicable, that procurement proceedings are properly planned, managed and concluded within the original bid validity period. Delays in evaluation, approvals or contract award may necessitate requests for extensions which bidders are free to decline. Procuring entities are cautioned against the arbitrary extension of bid validity periods, as repeated or prolonged extensions may:
 - i. impose an undue burden on bidders and contribute to bidder fatigue or dissatisfaction, which may reduce their willingness to agree to further extensions; and
 - ii. require bidders to extend the effectiveness of associated bid securities, which may impose additional financial costs, restrict liquidity and limit their capacity to pursue other procurement opportunities.

Where bidders elect not to extend their bid validity periods, the number of bidders remaining in the procurement proceedings may be reduced, potentially affecting competition, value for money and the integrity of the procurement process.

6. Where an extension becomes necessary, all affected bidders should be afforded an equal opportunity to consider and respond to the request. Any communication seeking an extension should clearly state that acceptance is voluntary, specify the revised validity period being requested, and explain the implications of accepting or declining the extension. Procuring entities should ensure that the process is conducted in a manner that preserves fairness, transparency and equal treatment of bidders.

-End-