

KNOWLEDGE CENTRE

Technical Specifications: Reference to Brand Names**GEN:1**

Relevant Facts or Questions Asked

A Procuring Entity (PE) sought guidance as follows:

Whether it would be deemed inappropriate or wrong to specify a particular brand in the specification of laptops to local computer suppliers in a restricted bidding process to acquire laptops.

Advice

1. A procuring entity may, where appropriate, make reference to a particular brand when describing its requirements. However, the specifications should generally be developed around the functional, performance and technical requirements of the laptops rather than brand-specific characteristics that unnecessarily restrict the products that suppliers may offer.
2. This is particularly relevant in the procurement of ICT equipment, where local computer suppliers may be authorised dealers, distributors or resellers for particular manufacturers. Restricting the requirement to a single brand may therefore have the practical effect of limiting competition to suppliers authorised or otherwise able to source that manufacturer's products, notwithstanding that other suppliers may be capable of providing laptops of an equivalent standard and functionality.
3. In this regard, Section 5 of the Public Procurement Act, 2015 (as amended) ("the Act") requires public procurement to, among other things, maximise economy and efficiency, obtain value for money, promote competition among suppliers, and provide for the fair and equitable treatment of persons participating in procurement proceedings. Further, where restricted competition is utilised, Section 23(2) of the Act, requires the procuring entity to restrict competition in the manner that best accommodates the circumstances of the procurement and, to the extent practicable, seek to maximise competition.

4. Accordingly, where reference to a particular brand is necessary to adequately communicate the standard, quality or characteristics required, the specification should generally be expressed using terminology such as “[Brand/Model]” or equivalent”, rather than requiring that specific brand exclusively. The solicitation document should then identify the relevant functional, technical and performance characteristics against which an offered equivalent will be assessed.
5. For example, rather than specifying a particular laptop model and reproducing characteristics unique to that manufacturer’s product, the Foundation should identify requirements such as minimum processor performance, RAM, storage capacity and type, display specifications, operating system compatibility, connectivity, security features, battery performance and warranty requirements. This allows suppliers to propose different brands capable of satisfying the Foundation’s underlying operational need.
6. A requirement for a particular brand without provision for an equivalent should therefore be used only where there is an objectively justifiable procurement need for that restriction, such as demonstrated requirements relating to compatibility or standardisation with existing ICT infrastructure. Any such restriction should be supported by an appropriate technical justification and documented as part of the procurement record.

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