

05 July, 2024

Ref: PRAZ/C/47

Mr. E. Matsvaire
Acting Chief Executive Officer
TOBACCO INDUSTRY AND MARKETING BOARD (TIMB)

RE: REQUEST FOR REVIEW BY THE SPECIAL PROCUREMENT OVERSIGHT COMMITTEE (SPOC): TENDER NO. TIMB/CAT/013/2024 -SUPPLY AND DELIVERY OF TONER CARTRIDGES

Your minute dated 19 June 2024 refers.

At the Special Procurement Oversight Committee (SPOC) Meeting No. 22 of 2024 held on 04 July 2024, Members observed the following: -

- The Accounting Officer's procurement process was for Supply and Delivery of Toner Cartridges using Framework Agreements and Subsequent Call-off Contracts.
- The Accounting Officer adopted the Framework Agreement method in line with section 21(2) and section 30 of the Public Procurement and Disposal of Public Assets (PPDPA) Act [Chapter 22:23], read with section 11 of the PPDPA (General) Regulations whereby suppliers will be engaged through call-off orders on an "as and when required" basis at varying prices.
- The Accounting Officer was recommending to enter into a Framework Agreement and call off contracts with 5 x bidders.
- Under Page 3 of 25 of the Standard Bidding Document, the Accounting Officer indicated that the framework agreement will be an open framework agreement.
- This was an Open Framework Agreement, therefore the Accounting Officer should further open up the procurement process so as to onboard more suppliers on the Framework Agreement by re-advertising the requirements.
- The Accounting Officer was recommending to shortlist only 5 bidders out of the 9 compliant bidders.
- The Accounting Officer's Standard Bidding Document had a weakness in that on section 2 page 3 of 25 it specified that the framework agreement was an open framework agreement and on section 2 page 15 of 25 it specified that the procuring entity intends to conclude a Framework Agreement with a minimum number of 3 bidders and a maximum of 5 bidders, hence the aforementioned clauses were conflicting.



- The aforementioned clause could have led to the low response on the tender process hence certifying the Accounting Officer's proposed shortlist would not result in the attainment of public procurement objectives as provided for under section 4 of the PPDPA Act.
- The Standard Bidding Document had two conflicting Bid Security Fees of USD1,000.00 and USD414.60 and a bank guarantee of USD414.60
- Procurements for Framework Agreements do not essentially require payment of bid securities as they are for shortlisting purposes where bidders will be engaged for call off contracts and cannot tie funds in anticipation of participating on a call off order.

Accordingly, the **SPOC** through **SPOC RESOLUTION 0430** of 04 July 2024, having reviewed the Accounting Officer's submission in terms of section 54 (10) of the Public Procurement and Disposal of Public Assets (PPDPA) Act [Chapter 22:23], **RESOLVED** on Tender No. **TIMB/CAT/013/2024** as follows: -

SPOC Resolution

SPOC Reference No & Date	Outcome	Accounting Officer's Award	Value
SPOC 0430 04.07.24	Does Not Certify Orders	<ul style="list-style-type: none"> • To the best of its knowledge and ability, that the Accounting Officer's proposal to shortlist 5 x compliant bidders on Tender No. TIMB/CAT/013/2024 for the Supply and Delivery of Toner Cartridges using Framework Agreements and Subsequent Call-Off Contracts for a period of 1 year withstands scrutiny, due to the fact that the Accounting Officer's Standard Bidding Document had weaknesses. • That the procurement proceedings be recommenced, as follows: - <ul style="list-style-type: none"> ○ Cancel the tender; ○ Debrief the bidders on the reasons for tender cancellation. ○ Review the process (<i>investigation into unsuccessful procurement proceedings</i>) in line with section 24 of the PPDPA (General) Regulations. ○ Craft a Standard Bidding Document that addresses shortcomings noted on the process; ○ Process the requirements in line with section 30 (<i>Selection of Procurement method</i>) of the PPDPA Act as read in conjunction with section 10 (<i>financial thresholds</i>) of the PPDPA (General) Regulations. ○ Comply with all provisions of the PPDPA Act and (General) Regulations on all future tenders. 	N/A

MMT
TMT

You are therefore advised to proceed as follows: -

1. Take all necessary steps as directed by the resolution.
2. In all communications, please quote the above **SPOC RESOLUTION** number and the date.

PP C. Ruswa 
Chief Executive Officer

PROCUREMENT REGULATORY AUTHORITY OF ZIMBABWE



**FOR AND ON BEHALF OF THE SPECIAL PROCUREMENT OVERSIGHT COMMITTEE
IN ACCORDANCE WITH SECTION 54 (3) OF THE PUBLIC PROCUREMENT AND
DISPOSAL OF PUBLIC ASSETS ACT [CHAPTER 22:23].**