

LEGAL NOTICE No. 89

REPUBLIC OF TRINIDAD AND TOBAGO

THE CENTRAL TENDERS BOARD ORDINANCE, 1961

ORDER

MADE BY THE PRESIDENT UNDER SECTION 20A(2B) OF THE CENTRAL  
TENDERS BOARD ORDINANCE, 1961

THE CENTRAL TENDERS BOARD (DEFENCE FORCE AND  
PROTECTIVE SERVICES) (NO. 2) ORDER, 1992

1. This Order may be cited as the Central Tenders Board (Defence Force and Protective Services) (No. 2) Order, 1992.

2. In this Order—

Interpreta-  
tion

“Chairman” means the Chairman of the Committee;

“Committee” means the Special Tenders Committee established by paragraph 3;

“items” means the items for use by the Trinidad and Tobago Defence Force and Protective Services and described in the Third Schedule to the Ordinance;

“Minister” means the Minister to whom responsibility for national security is assigned;

“relative” means the father, mother, brother, sister, brother-in-law, sister-in-law, son, daughter, son-in-law or daughter-in-law of a person;

“services” means the services required by the Trinidad and Tobago Defence Force and Protective Services and described in the Third Schedule to the Ordinance.

3. (1) There is hereby established within the Ministry a Special Tenders Committee which shall comprise the following persons: Establishment of a  
Special  
Tenders  
Committee

(a) the Permanent Secretary in the Ministry, who shall be Chairman;

(b) the Chief of Defence Staff;

(c) the Commissioner of Police;

(d) the Chief Fire Officer;

(e) the Commissioner of Prisons;

(f) an Administrative Officer V in the Ministry; and

(g) the Accounting Executive I in the Ministry.

(2) The Committee may co-opt such other members of the Ministry as it considers necessary.

(3) Where the Committee proposes to award a contract, the value of which exceeds one hundred thousand dollars, the Committee shall invite the Director of Contracts or his nominee to take part in the consideration or discussion of the award and to vote on the matter.

(4) In the absence of the Chairman at a meeting or any part thereof, the Committee shall elect one of the members present to perform the functions of Chairman.

(5) An officer of the Ministry, not below the classification of Clerk IV, shall attend meetings of the Committee and shall act as secretary to the Committee.

Function of  
Committee

4. The Committee shall invite and consider tenders for the supply of the items or services and shall decide whether to accept or reject such tenders in accordance with this Order.

Meetings  
of the  
Committee

5. (1) The Committee shall meet as often as the Chairman shall determine for the transaction of its business.

(2) Except where the Chairman otherwise determines, notices and agendas of meetings shall be circulated to members of the Committee at least forty-eight hours before the time fixed for such meetings.

(3) At a meeting of the Committee, four members shall constitute a quorum.

(4) Decisions of the Committee shall be by a majority of votes and for that purpose the Chairman shall have both an original and a casting vote.

(5) Minutes of each meeting shall be prepared in the proper form by the secretary, confirmed by the Committee at the next meeting and kept at the Ministry.

(6) Copies of minutes certified by the Chairman shall be forwarded monthly to the Minister and the Prime Minister.

(7) Decisions of the Committee may be taken at meetings or, where the Chairman so directs, by the circulation of papers among members.

(8) Where papers are circulated among the members, the Chairman may direct that the papers shall not be circulated to any member who through declared interest, illness, absence from the country or otherwise, is in the opinion of the Chairman precluded from voting.

(9) Where papers are circulated among members for decision, any member of the Committee may request the Chairman to reserve any matter for discussion at the next meeting of the Committee.

(10) Any member of the Committee who dissents from a decision may request the Chairman to record such dissent, and the Chairman shall record such dissent and the reason therefor in the minutes.

Consideration  
of  
tenders by  
Committee

6. (1) A member of the Committee or the Ministry who—

- (a) is a member of a company or other body;
- (b) is a partner in a firm or partnership;
- (c) is employed by a company, firm, partnership or other body;
- (d) has a financial interest in a company, firm, partnership or other body;
- (e) is married to a person; or
- (f) is married to a person who has a relative,

that has submitted a tender for the supply or purchase of items or services which is the subject of consideration by the Committee, shall disclose the fact to the Committee and that person shall not take part in the consideration or discussion of the tender nor vote on any question concerning the tender.

- (2) In its consideration of a tender the Committee may—
- (a) consult with any officer of the Ministry's staff, or any officer of Government or of any statutory body, or such other person as the committee may in its discretion consider proper and desirable;
  - (b) require any person who has submitted a tender to the Committee to attend a meeting of the Committee with such information with respect to that person's finances, equipment, professional or technical qualifications, or any other information that the Committee may require, so that the Committee may properly assess the tender and the capacity of the person to execute it;
  - (c) make inspections or arrange for the Chairman or another member of the Committee or an officer of the Ministry to make inspections; and
  - (d) require samples of items to be submitted for test or examination.

7. All documents and information relating to the functions of the Committee shall be treated with the utmost confidentiality by all persons in any way connected with the work of the Committee.

Documents  
and  
information  
to be  
confidential

8. A person, whether he has submitted a tender or not, who with the intention of gaining any advantage or concession for himself or any other person, offers any member of the Committee or officer of the Ministry a gift of money or other thing or approaches any member of the Ministry with respect to any matter that is or is expected to come before the Committee, shall be disqualified from being awarded the contract.

Disqualifica-  
tion of  
tender

9. (1) Where items or services are required to be supplied, a detailed description in writing of the items or services requested shall be given to the Committee.

Procedures  
for tender

- (2) On receipt of a request, the Committee may—
- (a) invite members of the public to tender for the supply of such items or services, as the case may be, by notice published in the *Gazette* and in local or overseas newspapers; or
  - (b) invite such persons or firms as may be selected by the Committee to tender for the supply of such items or services, as the case may be.
- (3) The notice shall be signed by the Chairman and shall contain—
- (a) a sufficient description of the items or services required and, whenever necessary, also state the place and the time at which additional information relating thereto can be obtained;
  - (b) the form or manner in which a tender is to be made;
  - (c) the date of completion of services or the period of delivery for the items;
  - (d) the date and time within which a tender is to be made;
  - (e) the place where, and the manner in which the tender is to be submitted;
  - (f) the date and time when all tenders are to be opened; and
  - (g) any other relevant information.

(4) The Chairman may cause such announcements in respect of tenders for the supply of items or services to be made by radio or television.

(5) The Ministry shall prepare and cause to be printed such forms as in the opinion of the Committee are necessary and appropriate for the making of tenders for the supply of items or services in connection therewith.

(6) A tender for the supply of items or services may be made on the appropriate form or when so directed by the Committee, by letter, and shall be signed by the person or firm making the tender or by a duly authorised officer or employee and shall be enclosed in a sealed envelope, addressed to the Chairman.

(7) A tender shall be accompanied by a valid Income Tax Certificate issued by the Board of Inland Revenue to the effect that the person, company, firm, partnership or other body has to the satisfaction of the Commissioner complied with the provisions of, and discharged his or its obligation under the Income Tax Act, and by a Value Added Tax Registration Number, if the person or firm is registered under the Value Added Tax Act.

Chap. 75:01  
Act No. 37  
of 1989

(8) Alterations or erasures to a tender submitted to the Committee shall be initialled by the person, or by a duly authorised officer or employee of the company, firm, partnership or other body submitting the tender.

(9) The Committee may reject a tender which does not comply with any provision of this paragraph.

Tenders  
box

10. (1) The Ministry shall keep at its offices or in such other place as in the opinion of the Chairman may be necessary for security or accessibility specially constructed boxes in which all tenders shall be placed.

(2) Each box shall be marked "Tenders Box", and shall be constructed so as to ensure the security of the documents placed in the box.

(3) Each box shall have two independent locks that control the opening of the box, the key of one lock shall be kept by the Chairman and the key of the other lock shall be kept by such other member of the Committee as the Committee shall decide.

(4) The Chairman shall assign a box for the receipt of tenders on any matter up to the date and time fixed in the relevant notice and shall cause the box to be marked so that it may readily be identified by persons delivering tenders.

Deposit

11. (1) The Committee may require any person who is desirous of submitting a tender to deposit with the Treasury a sum in an amount to be fixed by the Committee before the tender is submitted.

(2) The Committee may forfeit any sum so deposited where—

- (a) a person making a deposit fails to submit a tender;
- (b) a person whose tender is accepted fails or refuses to enter into a formal contract;
- (c) a person to whom a contract is awarded fails to execute and fulfil the terms thereof; or
- (d) a person withdraws a tender.

(3) After a contract is awarded the Chairman shall arrange for the refund of any deposit to persons or firms whose tenders have not been accepted.

(4) A tender may be withdrawn only by a letter delivered to the Chairman signed by a person, partner of the firm or duly authorised officer or employee of the company or body that submitted the tender.

12. A tender shall be submitted in an envelope, which shall be sealed and deposited in the tender box before the closing date and time specified in the notice. Tender to be sealed

13. (1) On the date fixed for the opening of tenders the Chairman and the member of the Committee with the key to the second lock shall unlock the box, remove the tenders found therein, open the sealed envelopes containing the tenders and cause a note to be taken of the following: Opening of tenders

- (a) the names of the persons, firms, companies or other bodies submitting tenders;
- (b) the sums of money mentioned in the tenders;
- (c) Income Tax Certificates;
- (d) Value Added Tax Registration Numbers; and
- (e) such other information as the Committee required,

and the Chairman and said member shall sign each tender as it is opened, and shall also sign the note taken of all tenders opened.

(2) Any person or representative of a firm, company or other body submitting a tender may be present at the opening of the tenders.

14. (1) After the tenders have been opened the Committee shall consider the offers made. Consideration by the Committee of tenders made

(2) Where there is no significant difference, in the quality of items or in the capacity to undertake the required services, as between tenders, the lowest tender shall be accepted by the Committee, subject to the following:

- (a) where the quality of the item differs as between tenders, the Committee in determining which tender shall be accepted shall take cognisance of—
  - (i) the price quoted;
  - (ii) any evidence of reliability of performance;
  - (iii) any warranty or guarantee given;
  - (iv) the maintenance or repair services offered;
  - (v) the adequacy of stocks of spare parts held in Trinidad and Tobago; and
  - (vi) any other matter relating to the quality, reliability or capability of the items or services;
- (b) where there is a significant difference in the capabilities of persons or bodies submitting tenders, the Committee in determining which offer shall be accepted shall take cognisance of—
  - (i) the price quoted;

- (ii) any evidence of previous performance of similar items or services;
- (iii) any warranty or guarantee given;
- (iv) technical skills, adequacy of support staff, supporting financial and contractual arrangements available in Trinidad and Tobago to the persons or bodies submitting tenders;
- (v) compatibility with other items and services used by the Defence Force and Protective Services; and
- (vi) any other matter relating to the quality or adequacy of performance of the items or services.

(3) Where a tender has been accepted by the Committee the person or body who submitted the tender shall be notified by the Chairman of its acceptance, and the Chairman shall inform him that he is required to enter into a contract with the Ministry.

**Form of contract**

15. (1) A contract shall be in such form and contain such terms, conditions and provisions, as the Ministry may determine, and shall specify, *inter alia*, whenever applicable—

- (a) a description of the items to be supplied or services to be undertaken;
- (b) the price to be paid for the supply of such items or services;
- (c) the period within which the matters contemplated in the contract are to be performed;
- (d) the amount of damages payable for delay or non-completion within the period stipulated; and
- (e) provision for termination on breach of contract.

(2) The Ministry may require a person to whom any contract is awarded to provide security in such form and to such extent as the Committee may determine.

**Exemption**

16. (1) On the recommendation of the Committee and with the approval of the Minister and the Prime Minister the purchase of items or services may be exempted from the operation of this Order where—

- (a) there is a limitation of sources of supply of the items or services;
- (b) the items or services form part of a system already in use by the Defence Force or Protective Services; or
- (c) the items are spares or replacement parts for other items already in use by the Defence Force or Protective Services.

(2) The Committee shall report any purchase made under this paragraph to the Minister and to the Prime Minister.

**Prohibition**

17. A member of the Committee, or an officer of the Ministry or the relative of any such person shall not tender for the supply of items or services, and where a person becomes an officer of the Ministry, after he or his relative has entered into a contract with the Ministry, the Ministry may terminate the contract upon such terms as it considers appropriate.

18. Where consideration is being given to the award of contracts involving foreign tenders, the Committee shall seek the advice of the Ministers to whom responsibility for finance and international trade are assigned.

Dated this 13th day of May, 1992.

K. BOSWELL INNISS  
*Secretary to Cabinet*