

LEGAL NOTICE NO. 262

REPUBLIC OF TRINIDAD AND TOBAGO

THE CIVIL AVIATION ACT, 2001

RULES

MADE BY THE BOARD WITH THE APPROVAL OF THE MINISTER
UNDER SECTION 24(2) OF THE CIVIL AVIATION ACT

THE CIVIL AVIATION (TENDERS COMMITTEE) RULES, 2004

WHEREAS it is provided by section 24(2) of the Act, that the board of the Trinidad and Tobago Civil Aviation Authority may make rules to regulate the award of tenders and contracts:

And whereas the said Rules shall be published in the *Gazette* and be subject to negative resolution.

1. These Rules may be cited as the Civil Aviation (Tenders Committee) Rules, 2004. Citation

2. In these Rules—

“Chairman” means the Chairman of the Committee unless otherwise stated;

“Committee” means the Tenders Committee of the Trinidad and Tobago Civil Aviation Authority appointed under rule 3(1) and charged with all matters relating to tenders;

“goods” means all goods, articles, materials, stores, vehicles, machinery, equipment and things of all kinds;

“Member” means a member of the Board of the Trinidad and Tobago Civil Aviation Authority;

“Minister” means a Minister to whom responsibility for the Trinidad and Tobago Civil Aviation Authority is assigned;

“Minister of Finance” means the Minister to whom responsibility for Finance assigned;

“relative” means spouse, father, mother, brother, sister, son, daughter, son-in-law and daughter-in-law;

Interpreta-
tion

“secretary” means secretary to the Committee unless otherwise stated;

“services” includes consultancy services of all kinds; and

“works” means construction and maintenance of buildings, equipment and engineering works and works of all kinds.

Establishment and composition of Tenders Committee

3. (1) There shall be a Tenders Committee (hereinafter called “the Committee”) which shall comprise five members as follows:

(a) three members of the Board of the Authority, one of whom shall be appointed Chairman of the Committee by resolution of the Board;

(b) the Director General or his designate; and

(c) the Executive Manager, Corporate Services.

(2) The Committee may co-opt one or more of the other members and officers of the Authority to attend meetings of the Committee and any such co-opted member or officer may advise, but shall not vote on any matter at such meetings.

(3) Subject to rule 10(7) where the Committee proposes to award a contract, the value of which exceeds one million dollars, the Committee shall invite the Director of Contracts of the Central Tenders Board or his nominee or consultant to take part in the consideration or discussion of the award of that contract and to vote on the matter.

(4) The value of the contract mentioned in subrule (3) may be varied by resolution of the Board and with the written approval of the Minister.

(5) An officer of the Authority shall be appointed to act as Secretary to the Committee.

Establishment and composition of Management Tenders Committee

4. There shall be a Management Tenders Committee (hereinafter called “the Management Committee”) operating under contract procedures adopted by the Authority which shall comprise the Director General or his designate who shall act as Chairman and any two of the following:

(a) Executive Manager, Corporate Services;

(b) Executive Manager, Safety Regulation; and

(c) Executive Manager, Air Navigation Services.

5. The Committee shall, in accordance with these Rules—
- (a) act for the Authority in inviting and considering offers for the supply of goods or services or for the undertaking of works of all kinds necessary for carrying out the functions of the Authority;
 - (b) make recommendations to the Authority in acceptance or rejection of offers or tenders; and
 - (c) dispose of surplus or unserviceable goods belonging to the Authority.

Functions
of the
Committee

6. (1) The Committee shall meet as often as is necessary for the expedient transaction of its business.

Meetings
of the
Committee

(2) The Secretary with the concurrence of the Chairman, shall fix the date, time and place for each meeting of the Committee.

(3) Except in such cases as may be determined by the Chairman, notices and agenda of meetings shall be circulated by the Secretary to members at least four days before the date fixed for such meetings.

(4) Meetings of the Committee shall be presided over by the Chairman and in the absence of the Chairman for any meeting or part thereof, the Committee may elect from among members present, a person to perform the functions of the Chairman.

(5) A member of the Committee 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, other body, firm or partnership;
- (d) has a financial interest in a company, other body, firm or partnership; or
- (e) is a relative of a person,

and who has submitted an offer for the supply or purchase of goods or for the undertaking of works or who has responded to a request for proposals which is the subject of consideration by the Committee shall disclose this fact and shall not take part in the consideration or discussion of, or vote on, any question relating to that offer.

(6) The members of the Committee are not precluded from placing offers for the purchase of surplus or unserviceable items so certified under rule 28 but the appropriate Tenders Committee is empowered to refuse to grant any award to the members, if in the opinion of the Committee, appearance of impropriety is likely to arise.

- Quorum 7. At any meeting of the Committee or for the purpose of voting on papers circulated, three members shall constitute a quorum.
- Decisions of committee 8. (1) Decisions of the Committee shall be taken at meetings, or in cases where the Chairman shall so direct, by the circulation of papers among the members.
- (2) Where papers are circulated among members, the Chairman may direct that the papers shall not be circulated to any member, who through declared interest, is in the opinion of the Chairman, precluded from voting.
- (3) Where papers are circulated among members for decision, any member of the Committee may request the Chairman to defer any matter or discussion for the next meeting of the Committee. The Committee shall then decide on the member's request.
- (4) The 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) Any member of the Committee who dissents from a decision may request the Secretary to record such dissent and the Secretary shall record such dissent and the reason therefor in the minutes.
- Minutes of meetings 9. (1) Minutes of each meeting of the Committee shall be—
- (a) prepared in a form approved by the Committee;
 - (b) kept at the Authority's head office; and
 - (c) confirmed by the Committee and certified by the Chairman at the succeeding meeting.
- (2) Copies of confirmed minutes of the Committee shall be submitted for consideration at meetings of the Board.
- (3) Two copies of such minutes certified by the Chairman of the Board shall be forwarded to the Minister within one month of certification.
- Purchasing procedures 10. (1) The Authority shall issue purchase orders for the supply of goods or services or works to be undertaken where the value of such goods to be supplied or such services or works to be undertaken, is less than fifty thousand dollars and the Authority shall not for the purpose of giving itself authority to act under this rule, subdivide the quantity of goods or services or works to be undertaken into two or more portions where the value of the subdivided portions falls within its financial authority, that is to say, fifty thousand dollars or less.

(2) Where action is taken by the Authority under subrule (1), the Director General shall inform the Management Tenders Committee of such action.

(3) The Management Tenders Committee may act for the Committee by inviting offers and placing purchase orders where the value of the goods or services or works to be undertaken exceeds fifty thousand dollars but does not exceed two hundred thousand dollars, but the Management Tenders Committee shall not for the purpose of giving itself authority to act under this rule, subdivide the quantity of goods or services or works to be undertaken into two or more portions so that the value of the subdivided portions falls within its financial authority that is to say, two hundred thousand dollars or less.

(4) Where action is taken under subrule (3), the Management Tenders Committee shall inform the Committee of such action.

(5) The Committee may invite and consider offers and tenders and make decisions thereon where the value of the goods or services or works to be undertaken is more than two hundred thousand dollars and less than five hundred thousand dollars but, the Committee shall not for the purpose of giving itself authority to act under this rule, subdivide the quantity of the goods or services or works to be undertaken into two or more portions so that the value of the subdivided portions falls within its financial authority, that is to say, five hundred thousand dollars or less.

(6) Where action is taken under subrule (5), the Committee shall inform the Board of such action.

(7) The Committee may invite and consider offers and tenders where the value of the goods or services or works to be undertaken is more than five hundred thousand dollars but, the Committee shall not, for the purpose of giving itself authority to act under this rule, subdivide the quantity of the goods to be supplied or the services or works to be undertaken into two or more portions so that the value of the subdivided portions falls within its financial authority, that is to say, five hundred thousand dollars or less.

(8) After the evaluation of all offers for goods or services or works to be undertaken pursuant to subrule (7) is done in accordance with Rule 23, the Committee shall make recommendation to the Board on the award of a contract for such goods or services or works to be undertaken and the Board shall make a decision by majority vote and the decision shall be recorded in the minutes of the meeting.

(9) The Authority and the Management Tenders Committee in the exercise of any functions under subrule (1) and (3), shall obtain a minimum of three offers for the goods or services or works to be undertaken, and the guidelines defined in Rule 23 shall be used in evaluating such offers.

(10) The sums or values mentioned in subrule (1), (3), (5) and (7) may be varied by resolution of the Authority and subject to the approval of the Minister.

Cases of
emergency

11. (1) In cases of an emergency, where the supply of goods or services or works to be undertaken is necessary to prevent the disruption of essential services, the Chairman of the Authority or in his absence the Chairman of the Committee shall contact the other members of the Board and obtain approval in writing for any expenditure.

(2) The provisions of rule 7 shall apply *mutatis mutandis* to decisions taken under subrule (1).

(3) Where action is not practical under subrule (1) the Chairman of the Authority or in his absence the Chairman of the Committee shall be empowered to authorize sole tendering for the purchase of any goods or services or works to be undertaken necessary for the expeditious handling of such emergency, and the total cost of such goods or services or works to be undertaken shall not exceed one hundred and fifty thousand dollars.

(4) Where action is taken under subrule (1), it shall be reported in writing to the Committee within twenty-four hours and the report shall contain a brief explanation of the emergency and actions taken to contact other Board members.

(5) The person ordering the goods or services under subrule (1) shall not sign for the receipt of the goods or services that is to say, the receiver must be another Director or an employee of the Authority.

(6) A confirmatory purchase order for the goods or services or works to be undertaken shall be issued by the Manager, Finance and Planning within forty-eight hours thereafter.

Exemptions
from the
operation of
these Rules

12. (1) At the discretion of the Committee and with the approval of the Chairman of the Authority the purchase of the goods or services by the Authority may be exempted from the operations of these Rules where there—

- (a) is a limitation of sources of supply of goods or services;
- (b) is an agency;
- (c) is a sole distributorship;

- (d) are goods or services which form part of a system already in use by the Authority; or
- (e) are goods that are spares or replacement parts for other goods already in use by the Authority.

(2) The Committee shall report to the Board of any purchase made by the Authority under subrule (1).

13. A person employed in the work of the Committee shall regard and deal with all documents and information relating to the functions of the Committee as confidential.

Confidentiality
of documents
and
information

14. (1) Where goods or services or works to be undertaken on behalf of the Authority are required, the Authority shall make a written request to the Committee to invite offers for the supply of such goods and services or works to be undertaken.

Invitation to
tender

(2) A request under subrule (1) shall contain sufficient description of the goods or services or works to be undertaken.

(3) On receipt of a request under subrule (1), the Committee shall either—

- (a) invite members of the public in general to make offers for the supply of such goods or services, or for an undertaking of such works as the case may be, by notice published in local printed press or in overseas printed press if circumstances so warrant; or
- (b) subject to the approval of the Board of the Authority invite such bodies or persons as may be selected by the Committee to make offers for the supply of such goods or services or for an undertaking of such works, as the case may be, whenever the Committee considers it expedient or desirable to do so.

(4) The notices referred to in subrule (3)(a) shall be signed by a member of the Committee and shall contain—

- (a) a sufficient description of the goods or services required or scope or works to be undertaken and shall whenever necessary also contain the place and time when additional information relating thereto can be obtained;
- (b) the form or manner in which an offer is to be made;
- (c) date of completion for work or services and the period of delivery for goods, if appropriate;
- (d) the date and time within which an offer is to be made;

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- (e) the place and the manner in which the offer is to be submitted;
- (f) a request for the submission of a Value Added Tax (VAT) Clearance Certificate, a Tax Clearance Certificate issued by the Board of Inland Revenue not more than six months old certifying that all obligations in respect of taxes administered by the said Board have been satisfied;
- (g) where necessary, a Certificate of Environmental Clearance issued under the Environmental Management Act should be requested;
- (h) a request for payment of a non-refundable tender deposit where necessary;
- (i) an indication of the form of security for performance, where necessary;
- (j) the date, place and time for the public opening of the tenders; and
- (k) any other essential matter.

(5) The notice described in subrule (4) shall be in such form as the Committee may determine.

Advertise-
ment of offers
on radio and
television

15. The Chairman may cause such advertisements in respect of offers for the supply of goods or services or for the undertaking of works to be made by radio or television or on the internet as he may from time to time deem expedient.

Form of
tender

16. (1) The Committee may prepare and cause to be printed such forms or other documents as in its opinion are necessary and appropriate for the making of offers for the supply of goods or for the undertaking of works or any services.

(2) Offers for the supply of goods or for the undertaking of works or services may be made on the appropriate form supplied by the Committee in accordance with subrule (1) or when so directed by the Committee, by letter, and shall be signed by the person making the offer, or in the case of a company, partnership or business firm by a duly authorized officer or employee of such company, partnership or business firm and shall be enclosed in a sealed envelope addressed to the Chairman.

(3) The following documents shall accompany every offer:

- (a) a VAT Clearance Certificate;
- (b) a Tax Clearance Certificate not more than six months old issued by the Board of Inland Revenue;
- (c) an Environmental Management Authority's Certificate of clearance when requested; and
- (d) a Tender Deposit Receipt where applicable.

(4) Alterations or erasures in any offer submitted to the Committee shall be initialled by the person making the offer, or in the case of a company, partnership or business firm, by the authorized officer or employee of such company, partnership or business firm.

17. The Committee may require any person who is desirous of making an offer in response to a public notice to deposit with the Authority a sum in an amount to be fixed by the Committee before any offer is made.

18. The Committee may reject any offer that does not comply with the provisions of these Rules.

19. (1) The Authority shall keep at its head office specially constructed boxes in which all offers shall be placed. The boxes may also be kept in such other places which in the opinion of the Committee may be necessary for security or accessibility.

(2) Each box shall be marked with the words "Tenders Box" and shall conform to specifications that ensure security of the documents placed in the box.

(3) Each box shall be secured by two independent locks that control the opening of the box.

(4) The key for one of the locks under subrule (3) shall be kept by the Chairman of the Committee and the key for the other lock shall be kept by the Secretary of the Committee.

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

(6) Each box shall be placed in a secured location accessible to the public during normal business hours.

Receipt of tenders 20. A person making an offer to the Committee shall place the offer in a sealed envelope and shall deposit the envelope in the box before the closing date and time specified.

Opening of offers 21. (1) The public shall be invited on the date and time fixed for the opening of offers in respect of any matter at which time the Chairman and the Secretary of the Committee shall unlock the box and remove the offers found therein.

(2) The Chairman or the Secretary of the Committee shall open the sealed envelopes and shall publicly announce the name of persons or organizations making the offer and the sums of money mentioned in the offer.

(3) Confirmation that all attendees heard the announcements, shall be obtained.

(4) A record of opening of all offers under subrule (1) shall be kept by the Secretary and where applicable it shall contain the following:

- (a) the names of persons or firms making the offers;
- (b) the sums of money mentioned in the offers;
- (c) VAT Clearance Certificate;
- (d) Tax Clearance Certificate issued by the Board of Inland Revenue certifying that all obligations in respect of taxes administered by the Board have been satisfied;
- (e) Tender Deposit Receipt;
- (f) an Environmental Management Authority's Certificate of Clearance; and
- (g) such other information as the Committee may determine.

(5) Each Committee Member present shall—

- (a) sign each offer when it is opened; and
- (b) at the end of the opening exercise sign the record of opening.

Consideration of tenders 22. (1) After all offers have been opened the Committee shall, at such times as may be deemed necessary or expedient, consider the offers so received.

(2) Subject to subrule (3) and (4), where there are no significant differences in the quality of goods or in the capacity of works or services undertaken between any tender, the lowest offer of best value shall be accepted by the Committee.

(3) Where the quality of goods differ between offers, the Committee in selecting which offer shall be accepted by the Authority shall set up an evaluation system to rate the suppliers or contractors taking into consideration the following information:

- (a) price quoted;
- (b) evidence of reliability of performance;
- (c) any warranty or guarantee given;
- (d) maintenance or repair service provided;
- (e) compatibility with other goods, works or services used by the Authority;
- (f) adequacy of stocks or spares held in Trinidad and Tobago by the person or company making the tender; and
- (g) any matter related to the quality, reliability or adequacy of the goods.

(4) Where there is a significant difference in the capacity of persons or organizations making offers to supply goods or to undertake works or services for the Authority, the Committee shall take into account—

- (a) price quoted;
- (b) evidence of previous performance of similar works or services;
- (c) any warranty or guarantee given;
- (d) technical skills, adequacy of supporting staff, supporting financial and contractual arrangements available in Trinidad and Tobago to the persons or organizations making the offer;
- (e) compatibility with other goods, works or services used by the Authority;
- (f) government's policy with respect to locally made or processed items and locally offered services being given preference within the limits of reasonable economic operations; and
- (g) any other matter related to the quality or adequacy of the supply of goods or the performance of the works or services in selecting which offer shall be acceptable by the Authority;

- (5) The Committee may, in consideration of any offer—
- (a) consult with any officer of the Authority's staff, or any officer of the Government or of a Statutory Body, or such other person or persons as the Committee in its discretion may consider proper and desirable;
 - (b) require any person or organization who or which has made an offer to the Committee to attend a meeting of the Committee and to furnish the Committee within a specified time with such information with respect to that person's or organization's finances, equipment or professional or technical qualifications as the Committee may require or any other information that in the opinion of the Committee is necessary for the proper assessment of the offer and the person's or organization's capacity to execute same;
 - (c) make inspections and arrange for the Chairman or another member of the Committee or an officer of the Authority to make inspection wherever the Committee considers it desirable so to do; and
 - (d) require samples to be submitted for test or examination.

Acceptance
of offers

23. (1) Where an offer has been accepted in respect of a contract above the sum of five million dollars an award shall not be made unless prior approval of the Minister with responsibility for finance is obtained.

(2) In seeking the approval of the Minister with responsibility for finance, the following information shall be provided:

- (a) the form of invitation to tender, whether open or selective;
- (b) the nature and specifications of the recommended contract;
- (c) the duration of the contract;
- (d) the names of all the tenderers and the respective bids made by these tenderers;
- (e) the name of the recommended tenderer; and
- (f) the rationale for the selection of the tenderer.

(3) Where an offer has been accepted in respect of a contract below the sum of five million dollars the following information must be provided:

- (a) the form of invitation to tender, whether open or selective;
- (b) the names of all tenderers and the bids made by these tenderers;

- (c) the name of the successful tenderer or contractor;
- (d) the value and duration of the proposed contract; and
- (e) the rationale for the selection of the successful tenderer or contractor;

(4) A report of all contracts awarded below the sum of five million dollars shall be submitted to the Minister with responsibility for finance on a monthly basis, no later than seven days following the end of each month.

(5) After approval of the Minister with responsibility for finance is obtained in respect of a contract above the sum of five million dollars, the person submitting the offer shall be notified in writing by the Chairman of the acceptance of such offer, and the Chairman shall inform him that he is required to enter into a formal contract with the Authority.

(6) All unsuccessful tenderers shall also be informed of the outcome of their tender.

(7) Subject to rules 26 and 27, where an offer has been accepted by the Committee, the Authority and the person or organization whose offer has been accepted shall enter into a formal contract, in appropriate cases for the supply of the goods or the undertaking of the works or services, as the case may be.

(8) A formal contract shall be in such form and contain such terms, conditions and provisions as the Authority may determine and shall specify, whenever applicable—

- (a) a description of the goods or services or the works to be undertaken;
- (b) the price to be paid for the supply of such goods or services or the undertaking of such works;
- (c) a rate schedule or price list for any additional services or items that may be needed to handle any variation;
- (d) the period within which the matters contemplated by the contract are to be performed;
- (e) the amount of damages payable by the contractor for delay of non-completion within the period stipulated;
- (f) provision for termination on breach;
- (g) provisions for determination of disputes;
- (h) a standard process to handle any variation to the original contract.

- Contractor to provide security 24. The Authority may require every person or organization to whom a contract is awarded to provide security in such form and to such an extent as it may determine which may be in the form of a performance bond or retention sum.
- Disqualification 25. A person representing himself or an organization whether that person has made an offer 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 Authority a gift of money or other thing or approaches any member of the Authority with respect to any other matter that is before the Committee or that is expected to come before the Committee shall be disqualified from being awarded a contract.
- Prohibition from entering into contract 26. A member of the Authority, a member of the staff of the Authority or the relative of any such person shall not enter into any contract for the supply of goods or the undertaking of any works or services for the Authority, and where a person joins the staff of the Authority after he or his relative has entered into a contract with the Authority, the Authority may terminate the contract upon such terms as the Committee may deem appropriate.
- Disposal of surplus or unserviceable goods 27. (1) The Authority may from time to time certify goods which are the property of the Authority as being no longer serviceable or as being surplus to its requirements and when goods are so certified the Authority shall report this fact to the Committee.
- (2) The report shall contain a full description of the goods, the quality thereof and the places where the goods are stored.
- (3) The Committee may sell and dispose of the unserviceable or surplus goods by public auction or may adopt such other method of disposal as the Committee may consider proper or desirable.
- (4) When surplus or unserviceable goods are being disposed of, the Secretary of the Authority shall nominate a member of the Authority's staff to attend and that nominated person shall submit a report in writing to the Committee.
- (5) The Authority shall credit the proceeds of such sales less all expenses to the appropriate revenue item of the Authority's budget.
- Tenders for office equipment 28. When considering the purchase of—
- (a) office machines;
 - (b) domestic appliances;
 - (c) furniture; and
 - (d) other supplies,
- the Committee and the Authority may take note of annual contracts awarded for such goods by or on behalf of the Central Tenders Board.

29. Notwithstanding anything to the contrary in these Rules, ^{International} contracts shall not be awarded to— ^{contracts}

- (a) non-residents;
- (b) foreign companies; or
- (c) partnerships,

unless the prior written approval of the Minister is obtained.

30. With respect to any matter not expressly provided for in these Rules, the Committee may be guided by the provisions of the Central Tenders Board Ordinance, as amended, from time to time, insofar as those provisions are not inconsistent with the directives and policies expressed or implied in these Rules. ^{Applicability of the Central Tenders Board Ordinance 1961}

31. The Board of the Authority may vary, rescind or amend these Rules by resolution of the Authority and with the written approval of the Minister. ^{Amendment to Rules}

Made by the Board this 18th day of August, 2004.

R. BROWN
Chairman of the Board

Approved by the Minister of Works and Transport.

F. A. KHAN
Minister of Works and Transport

Laid in the House of Representatives this day of ,
2004.

Clerk of the House

Laid in the Senate this day of , 2004.

Clerk of the Senate