Guyyaa 19/02/2019

Beeksiisa

Dhimmi:- Firii Komii Caalbaasii Beeksiisu

Caalbaasii Melka Tuchi irratti Xiinxallii Tekinikaa hojjetame irratti Komii jiru hubachuun irra deebiin koree haaraan dhaabbatee xinxala isaa hojjete jira.

Haaluma koree hojjete irra dhaabbachuun xinxalli isaa isin beeksisuu ta'a.

Bilroo Jallisii fi Horsiisee Bulaa Oromiyaa
Oromia Irrigation and Pastoralist Bureau

Nagaa Wajjin

Dammaqach G/Giyoorgiis
Daayirektara Bittaa

4. Summary of the Complaint

On 26/10/2026, the committee received a written complaint from Dedefo Tenesho C/WWCGC JV with Shodep Engineering concerning the bid evaluation result for Melka Tuchi

The complainant raised the following issues:

1. **First Issue:** Section III, Eligibility and Qualification Criteria, Sub-Factor 2.5, requires each member of a Joint Venture to make the ESHS Past Performance Declaration using Form CON-3. The form itself states that the declaration shall be completed for the Bidder, each member of a Joint Venture, and each Specialized Subcontractor.

   In compliance with this requirement, our Joint Venture submitted the prescribed Form CON-3, clearly identifying the Joint Venture as the bidder and separately identifying both constituent members, namely Dedefo Tenesho GC/WWCGC (Member 1) and Shodeb Engineering (Member 2). Furthermore, both JV members signed every page of the submitted declaration, thereby endorsing the document and confirming their participation in the submission.

2. **Second Issue:** Our second concern relates to the Adjudicator provision under Section I, Instructions to Bidders, ITB 51.1, read together with Section II, Bid Data Sheet, ITB 51, and the relevant Particular Conditions of Contract.

   ITB 51.1 provides that the Employer propose the person named in the Bid Data Sheet for appointment as the Adjudicator under the Contract. However, the corresponding entry in the Bid Data Sheet expressly states that the Adjudicator proposed by the Employer is N/A. Accordingly, the Employer did not identify or propose any specific individual to serve as the Adjudicator, which is controversial.

3. Issue Three: Request for Reconsideration

In view of the foregoing, we respectfully request that the Client reconsider the determination that our bid is nonresponsive on the two grounds described above. We believe that our submissions were made in good faith and with the intention of complying with the requirements of the bidding document.

We further request that, should the Client maintain either finding, the specific provisions relied upon be identified and the reasons for considering our submissions noncompliant be explained.

Bilroo Jallisii fi Horsiisee Bulaa Oromiyaa
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5. Investigation Methodology

The committee applied the following procedures:

5.1 Review of the Complaint

Issue 1: Environmental, Social, Health, and Safety (ESHS) Performance Declaration (Form CON-3)

- **Evaluation Committee's Finding:** The bidder failed to submit the required Environmental and Social Declaration in accordance with the bidding requirements, specifically regarding the submission requirements for joint venture members.
- **Bidder's Position:** The JV submitted Form CON-3, identifying both constituent members (*Dedefo Tenesho GC/WWCGC* and *Shodeb Engineering*) and having both members sign every page. They argue that Section III (Sub-Factor 2.5) requires each member to make the declaration, but does not explicitly prohibit submitting a single, jointly executed form.
- **Committee Analysis:**
  - Section III, Sub-Factor 2.5 ("Compliance Requirements") mandates that for a Joint Venture, **"Each member must make the declaration"** and in case of all member Combined as well as at least One Member is Not Applicable (N/A).
  - *Requirement:* Each JV member must submit a separate physical copy of Form CON-3 to establish individual history.

Issue 2: Proposal Regarding the Adjudicator

- **Evaluation Committee's Finding:** The bidder incorrectly completed the Letter of Bid by identifying an Adjudicator, even though the Bidding Document explicitly specifies that an Adjudicator is "Not Applicable" (N/A) stated in Bid Data Sheet.
- **Bidder's Position:** In the Letter of Bid, under item (m), the bidder stated: *"We accept the appointment of Mutually Agreed Upon with the Client as the Adjudicator."* The bidder asserts that because ITB 51 / Bid Data Sheet (BDS) marked the Employer's proposed Adjudicator as "N/A", they did not nominate or name an independent individual, but rather expressed willingness to agree on an appointment with the Client if a dispute arises.
- **Committee Analysis:**
  - Section I (ITB 12.1) and Section II (BDS ITB 51) specify "N/A" for the proposed Adjudicator.

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- Section I (ITB 12.1) and Section II (BDS ITB 51) specify "N/A" for the proposed Adjudicator.
- *Requirement:* As Section I (ITB 12.1) the form must completed without any alteration to the text, and no substitute shall be accepted. Additionally any addition or modification to the pre-formatted Letter of Bid text beyond accepting or rejecting a named individual constitutes an irregularity during preliminary evaluation.
- *Substantive/Proportional Interpretation:* The statement did not nominate a third party or alter the contract terms; it acknowledged that no specific person was named ("N/A") and expressed openness to future mutual agreement.

6. Conclusion and Recommendations

After reviewing the bidder's request for reconsideration against the strict provisions of the bidding document and evaluation criteria, the Grievance Committee concludes the following:

1. **Upholding Non-Responsiveness:** The committee finds that the bidder's failure to submit separate ESHS Performance Declarations (Form CON-3) for each JV member and the response regarding the Adjudicator represent material non-compliance with the bidding document instructions.
2. **Final Recommendation:** The committee recommends that the Employer **keep the decision of non-responsiveness**, and the bidder's request for reconsideration is hereby **rejected**.