Early Market Engagement by Public Bodies

1. **Pre-Procurement Market Engagement**

   Pre-procurement engagement comprises a range of activities undertaken by public bodies to engage with the market before starting a formal bidding procurement process.

   As the Public Procurement Act does not prohibit public bodies to hold pre-procurement engagement with the market, they may therefore conduct market consultations prior to inviting bids following a transparent process.

2. **Purpose of Market Engagement**

   The purpose of the consultation is to enable public bodies to gather knowledge of what the market can offer, build suppliers’ awareness of a procurement well before the formal invitation to bid and choose the appropriate procurement approach that would deliver the desired outcome.

3. **Circumstances favouring market engagement**

   The following circumstances favour market consultations:

   - There is a need for a technical dialogue so that the public body may draft the specifications properly and objectively.
   - The public body does not have full knowledge of the market. The exercise would provide a better understanding of the feasibility of the requirement, the best procurement approach, the capacity of the market to deliver and possible risks involved with different procurement approaches.
   - The public body is procuring a high value or complex item for the first time and it has limited knowledge on the subject matter.

4. **Principles underlying market engagement**

   The market consultations should be conducted through a transparent process embedding the principles of fair competition, non-discrimination and equity by:

   - Informing the participants on the key objectives of the market consultation exercise.
   - Informing suppliers at an early stage that the exercise would result in a competitive bidding process.
   - Maintaining the commercial confidentiality of information received during discussions with suppliers.
• Providing a fair and equitable treatment to all bidders at the time of the formal bidding process. No bidder, including those participating in the market consultation exercise, would enjoy a privileged treatment as a result of his contribution during the market engagement.

• Informing suppliers that the market engagement involves no element of supplier selection and involves no commitment from either side.

5. **Methods of engaging with the markets**

Public bodies may resort to engaging with the markets in the following ways:

• **Market Sounding Exercises** – including the use of Request for Information containing a brief description of the purpose of the project, its expected outcome and implementation schedule and directing potential suppliers to respond to essential information through questionnaire, if need be.

• **Prior Information Notice** – inform the market of the upcoming procurement need and provide an opportunity to seek feedback from potential suppliers.

• **Face-to-face meeting** with potential bidders to capture their views on the requirements including viability and possible delivery options. The event should be advertised through the media and public procurement portal.

6. **Two Stage Bidding**

Notwithstanding the above, the two stage bidding process remains a procurement process under the Public Procurement Act that public bodies may have recourse to. It applies for complex projects and the public body has a general knowledge of its purpose and output but is unable to adequately define the specifications and evaluation criteria for solutions that the market knows better, especially in a dynamic market that is subject to continuous technological changes.

Two stage bidding is a formal bidding process contrary to market engagement which is not a bidding process, but facilitates better procurement outcomes.

**Procurement Policy Office**

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