



SOLUTION: CASE STUDY, SOUTH SESSION

No.	Question	Resolution	Reference to Regulation, Legislation and or best practice
1.	Identify the relevant sections of the Act that relate to the case study	Objects of the Act and other applicable sections.	<p>1. Objects of the Act – Section 5 <u>Fairness</u> - Even playing field where all bidders are treated equally <u>Transparency</u> – appropriate information is placed in the public domain <u>Integrity</u> – avoiding corruption and conflicts of interest</p> <p>(Definitions were obtained from the Comprehensive Handbook: Procurement, Retention & Disposal of Public Property)</p> <p>2. Section 27 – a procuring entity shall no later than six weeks after the approval of the National Budget, publish on its website or in any other electronic format, information regarding all planned procurement activities for the following 12 months</p> <p>3. Section 29 – Due diligence requirements</p> <p>4. Section 33 - Cancellation of procurement</p> <p>5. Section 35 – Acceptance of the successful submission and entry into force of the Procurement Contract (Standstill period)</p> <p>6. Section 49 - Challenge Proceedings</p>



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			<p>7. Section 50 - Application for review by the Office</p> <p>8. Section 51 - Rights of participants in challenge proceedings</p>
2.	<p>Is a 'Single Envelope System' appropriate for this type of procurement activity?</p>	<p>A single envelope system is appropriate when the basis of the evaluation is lowest cost and the technical requirements can be clearly specified. Since OISTT can clearly define the specifications for the laptops as well as the services required to meet its requirements, the single envelope system is appropriate.</p> <p>However, an Invitation to Bid (ITB) document should have been used instead of a request for proposal since the services required as part of this process are not intellectual or advisory in nature and the goods required can be clearly specified. With an ITB process the award would be made on the basis of lowest cost, technically compliant bid. Service requirements and warranty requirements can be clearly specified and treated as a compliance requirements. Following the compliance the commercial proposal of the technically compliant bids can be assessed to identify the lowest priced compliant bid.</p>	<p>UN Procurement Practitioner's Handbook</p> <p>"The essential characteristic of the ITB is that the technical requirement can be clearly and completely specified in a qualitative and quantitative manner, and the award is normally made on the basis of lowest cost, among commercially and technically compliant bids, lowest priced substantially compliant or similar criteria.</p> <p>Bids are normally submitted in a single envelope."</p>

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3.	Should the evaluation team request a modification of the proposed technical specifications, the submission of an amended price and sample laptop from Workaholic in this particular procurement process? Please give reasons for your answer.	<p>No the solicitation document indicated that only proposals satisfying the minimum requirements will be evaluated. Additionally it was stated that failure to submit a sample laptop shall result in rejection. As a result the submission by Workaholic should be treated as non-compliant. No clarification should have been requested during the evaluation process. Clarifications requested during the evaluation must not alter the substance or price of the offers and should not seek to make a non-compliant bid, compliant.</p> <p>Of note, you cannot attempt to circumvent the objects of the Act or any portion thereof by including terms in your solicitation documents.</p>	<p>UN Procurement Practitioner’s Handbook Clarifications from suppliers during the evaluation “In complex cases where clarifications from the suppliers may be required in order to finalise the evaluation, discussions with potential suppliers may take place. The key condition when seeking clarifications of offers from suppliers is that neither the substance nor the price of the offers should be allowed to be changed.”</p> <p>General Guideline: Evaluation of Bids and Award of Contract, Office of Procurement Regulation “The procuring entity may request clarifications of bidders concerning ambiguities or inconsistencies in the bid. Such requests shall be in writing, and no change in the price or scope of the originally offered goods, works, or services shall be sought or accepted, except for the correction of arithmetic error. The responses from bidders shall also be in writing. No circumstances shall justify unofficial meetings or conversations between the procuring entity and bidders during the bid evaluation process. Sanctioned meetings or conversations shall be electronically recorded, a summary of the proceedings shall be reduced to writing, and both the electronic and written record shall be included in the record of procurement proceedings.”</p>
4.	Was the evaluation team, following best practice? Please give reasons for your answer.	No - None of the submissions were fully compliant with the minimum technical requirements. However since no fully compliant bid was received the	<p>UN Procurement Practitioner’s Handbook Lowest priced technically responsive/compliant acceptable offer method</p>



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		<p>evaluation committee should cancel the process or provide justification for accepting the most substantially compliant submission received, if the issues of non-compliance were deemed immaterial in the Evaluation Committee’s assessment.</p> <p>Based on the fact that the submission from ‘Curious’ substantially met the technical requirements and received the highest overall score the submission by ‘Curious’ should be accepted for award with adequate justification from the evaluation committee.</p> <p>The submission received in USD should not be assessed since it did not comply with the requirement for quotation in TTD as specified at section 8 (d) of the solicitation document.</p> <p>The submission by Workaholic should have been rejected since it did not include a sample laptop and given that the proposed laptop was not substantially compliant with the technical requirements. Workaholic’s submission should not be accepted and no modifications should be requested.</p> <p>The standstill period applied by OISTT was not in keeping with the standstill period of 10 to 15 days as</p>	<p>“When using this method as typically is the case for ITBs (and in a simpler form, also for RFQs), the award of a contract should be made to the supplier whose offer has been evaluated and determined as both:</p> <ul style="list-style-type: none"> • Responsive/compliant/technically acceptable • Offering the lowest price/cost <p>“Responsive/compliant/technically acceptable” can be defined as fully meeting the specifications/TOR/SOW required, or reaching a pre-defined threshold of a maximum attainable score based on the requirements stated in the specifications/TOR/SOW. The level of responsiveness/compliance/acceptability may be measured using straightforward pass/fail criteria or more complex approaches like a weighted scoring system.”</p>



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		<p>specified in the Regulations and the OPR's guideline. The challenge brought by the supplier was in keeping with the standstill process specified in the General Guidelines issued by the Office.</p>	
5.	<p>Was the procurement process in keeping with the objects of the Act?</p>	<p>No, the evaluation procedure used was not transparent and would not instil public confidence in the process. The procedure followed was not in keeping with that specified in the solicitation document or best practice. The evaluation process was not fair as the committee allowed a non-compliant proponent the opportunity to make its submission compliant at the expense of the more compliant proponents.</p> <p>It is important that throughout the evaluation process, transparency is maintained and seen to be maintained. As such the evaluation procedure and criteria used should be specified and shall apply equally to all participants in the process. A clear and documented audit trail must be provided (justification for accepting the substantially compliant bid). All decisions, and the reasons for them, should be clearly documented, signed by the responsible parties, and filed with the bid documents. Given that no proponent was</p>	<p>Objects of the Act – Section 5</p> <p><u>Fairness</u> - Even playing field where all bidders are treated equally</p> <p><u>Transparency</u> – appropriate information is placed in the public domain</p> <p><u>Integrity</u> – avoiding corruption and conflicts of interest</p> <p>(Definitions were obtained from the Comprehensive Handbook: Procurement, Retention & Disposal of Public Property)</p>



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		<p>substantially compliant a detailed justification is required if for moving the process forward. General Guideline: Evaluation of Bids and Award of Contract, Office of Procurement Regulation</p>	
6.	<p>As the 'Named' Procurement Officer of OISTT, what would you have done differently if assigned to the said procurement activity?</p>	<p>As the 'Named' Procurement Officer of OISTT, I would cancel the procurement process. According to Section 33 of the Act, A procuring entity may cancel a procurement at any time prior to the acceptance of the successful submission.</p> <p>Since the process followed was not in keeping with good procurement practice and an award based on the procedures followed will result in a breach of the objects of the Act this process should be cancelled.</p> <p>Additionally, "none of the submissions fully satisfy the requirement." If the subject matter expert determined that the submission by 'Curious' was substantially responsive to the requirements then the submission by 'Curious' could have been accepted as the lowest technically compliant submission with adequate justification. there was improper application of the standstill period by OISTT. Overall since OISTT did not comply with the conditions of their solicitation document, the</p>	<p>UN Procurement Practitioner's Handbook Cancellation of Solicitation</p> <p>"The UN organization should include in the solicitation documents that it reserves the right to cancel a solicitation without recourse at any time during the solicitation and evaluation process and prior to contract award. Conditions that may give rise to a cancellation are:</p> <ul style="list-style-type: none"> • Justification for the initial solicitation is no longer valid • Requirements require material revision • A substantial variance exists between the lowest bid and cost estimates"



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		<p>process should be cancelled. Workaholic's submission should not be accepted, since it did not include a sample laptop the proposed laptop was not substantially compliant, the submission by Detailed should not be accepted as it was quoted in USD.</p>	