



**PUBLIC PROCUREMENT OVERSIGHT AUTHORITY**  
*Transforming Procurement*

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**To: All Accounting Officers**

**All CEOs, State Corporations**

**All Vice-Chancellors, Public Universities**

**All Managers, Co-operative Societies**

**All Clerks, Local Authorities**

**All Principals/ Head Teachers, Public Colleges & Schools**

**All CDF Account Managers**

**RE: PROCUREMENT OF PROFESSIONAL SERVICES**

The Public Procurement Oversight Authority has in the recent past received various complaints by professional bodies over the manner in which procurement of professional services is carried out by procuring entities (PEs). Their main concern is that PEs ought to request for technical proposals only, and thereafter negotiate on the contract price with the technically qualified bidder(s), citing that their respective legislations bar professionals from charging below the laid down fees.

The Public Procurement and Disposal Act, 2005 (the Act) and its attendant Regulations set out provisions of how public entities should undertake their procurements and disposals. Section 2 of the Act outlines some of the objectives of the Act as being to maximise economy and efficiency, promote competition and transparency, and ensure that competitors are treated fairly. It is in recognition of the principle of achievement of value for money that the Act advocates for open tender as the preferred procurement method for procurement of goods, works and services. The Act requires that tenders be awarded to the lowest evaluated tenderer or the tenderer with the highest combined score, pursuant to Sections 66 and 83 of the Act respectively.

Generally, procurement of professional services is governed by Sections 76 to 85 of the Act, and Regulations 55 to 58 of the Regulations, which provide for the use of the Request for Proposals (RFP) method where the services are of advisory or predominantly intellectual nature.

In addition, Section 82(5) of the Act specifically provides that:-

*“The successful proposal shall be the responsive proposal with the highest score determined by the procuring entity by combining, for each proposal, in accordance with the procedures and criteria set out in the request for proposals, the scores assigned to the technical and financial proposals ...”*

To this end, it is a requirement of the Act for PEs to call for both technical and financial proposals when procuring intellectual and professional services. Consequently, professional fees chargeable (price) should form part of the evaluation criteria.

Further, PPOA takes cognizance of the fact that professionals such as Lawyers; Architects, and Quantity surveyors have their prices governed by the Advocates Remuneration Order, and the Architects and Quantity Surveyors Act respectively. We note that these legal documents provide a minimum percentage of fees chargeable for services offered by the respective professionals. The aforementioned documents do not oust the requirement for competition over prices quoted above the legal minimum. In that regard, all PEs intending to procure similar professional services are required to keep abreast of such legal and regulatory documents that govern fees for professional services prior to proceeding with procurement procedures.

Since the price quoted by the tenderers responding to the RFP will have to be considered among other issues such as technical capacity of the tenderer to deliver the services, PEs, guided by the principle of competition, fairness and legality, stipulated in the procurement law should ensure that their evaluation criteria are engendered to award tenders only to qualified professionals/firms who adhere to the regulations governing the practice of their professions.

You are requested to bring the contents of this Circular to the attention of your respective heads of procurement units and user departments to

ensure its adherence when undertaking procurement of professional services whose mode of practice and fee charges are legislated and regulated.



**M. J. O. JUMA**  
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