

Notice Number            MCST 04/2008  
Closing Date             **1200 hours on 12 September 2008**  
Date of Publication      22 August 2008

**Provision of Consultancy Services  
(Public Procurement for Innovation)  
to the Malta Council for Science and Technology**

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**Invitation to Tender**

**August 2008**

AVVIZ TAL-MCST

NRU MCST 04/2008

OFFERTA GĦAL:

**Provision of Consultancy Services (Public Procurement for Innovation) to MCST**

1. Dan l-uffiċċju jirċievi offeriti magħluqin u miktubin fuq formola magħmula għalhekk u skond kif speċifikat fil-formoli u fil-kundizzjonijiet meħmuża ma' l-istess formola sa nofs-in-nhar **tat-12 ta' Settembru 2008**.
2. Ma titqies ebda offerta jekk:-
  - a) ma tasalx għand l-MCST sal gurnata u l-ħin imsemmijin hawn fuq;
  - b) ma tkunx miktuba fuq formola magħmula għalhekk;
  - c) (i) fil-każ ta' Kumpanija b'responsabbilita' limitata ma tkunx iffirmata minn persuna jew persuni awtorizzati/i li jiffirmaw għan nom tal-Kumpanija;  
(ii) fil-każijiet l-oħra kollha ma jkunx iffirmit minn min jagħmel l-offerta;
  - d) ma jissemmewx fl-offerta ta l-indirizz postali u l-eta' min jagħmel l-offerta - fejn ikun applikabbli
3. Min jieħu l-offerta għandu meta dan ikun rikjest mill-kundizzjonijiet ta' l-offerta, jiġi biex jiffirma l-kuntratt fejn u meta jkun mitlub jagħmel hekk. Id-drittijiet tal-kuntratt iħallashom min jieħu l-appalt. Min jieħu l-appalt ikollu jħallas piena li tkun daqs il-għaxra fil-mija tal-valur stmat tal-kuntratt, Jekk huwa jonqos li jmur jiffirma personalment jew bi prokura, il-kuntratt għal darbtejn wara xulxin meta jkun mitlub jagħmel dan. Barra minn hekk, jekk min jagħmel l-offerta ma jagħtix xi informazzjoni u/jew dokumenti meħtieġa biex jiġi formulat il-kuntratt dan jitqies li ma jridx jiffirma l-kuntratt u b'hekk dak li jkun iffirma l-offerta jsir responsabbli personalment u jsir sugġett għal-piena msemmija hawn fuq. Ma' dan kollu min jagħmel l-offerta jibqa' responsabbli li jwettaq l-obbligi taħt il-patt u jista jkun imġiegħel iwettaq dawn l-obbligi taħt il-kundizzjonijiet li jirregolaw il-kuntratt u jkun sugġett għall-pieni li hemm imsemmija f'dawn il-kundizzjonijiet għalkemm il-kuntratt formali jkun għadu ma sarx.
4. Kull min jagħżel offerta ma jistax irregġgagħha lura jew jirtiraha fiż-żmien imsemmi fil-formola relattiva ta' l-offerta. Matul dan iż-żmien, li jibda jghodd mid-data li fiha jkun għalaq iż-żmien li jixteħtu l-offerti, dawn l-offerti jibqgħu jghoddu u jistgħu jintlaqgħu f'kull żmien.

MCST

NOTICE NO MCST 04/2008

TENDER FOR:

**Provision of Consultancy Services (Public Procurement for Innovation) to MCST**

1. Sealed tenders on the prescribed form and in accordance with the specification and conditions attached thereto will be received at this office up to 1200hours (noon) on **12 September 2008**.
2. No tender shall be considered unless:-
  - a) it is received at MCST on or before the date and time fixed above;
  - b) it is made on the prescribed form;
  - c) (i) in the case of a Limited Company it is signed by a person of persons duly authorised to act on behalf of the company;  
(ii) in all other cases it is signed by the party tendering;
  - d) the postal address and age of the tenderer - where applicable - are stated in the tender
3. The successful tenderer shall where the conditions of the tender so specify, call to sign the contract where and when required to do so. The contract fees shall be borne by the successful tenderer. The tenderer whose offer is accepted shall incur a penalty equal to ten per cent of the estimated value of the contract should he fail to call either personally or by proxy to sign the contract for two consecutive times when requested to do so. Moreover, if the said tenderer fails to furnish information and/or documents necessary for the drawing up of the contract this shall be construed as unwillingness on the part of the tenderer to sign the contract, and shall render the signatory of the tender personally responsible and liable to the penalty aforesaid. This notwithstanding the said tenderer shall remain responsible to carry out his obligations under the agreement, and may be compelled to carry out such obligations under the conditions governing the contract and shall be subjected to the penalties specified in those conditions although a formal contract was not executed.
4. Tenderers shall not retract or withdraw their tenders for the period specified in the relative form of tender. During this period, which shall commence from the date of expiration of the time fixed for the presentation of tenders, the tenders shall remain binding and may be accepted at any time.

5. Il-MCST iżomm li tilqa' jew tirrifjuta kollha kemm huma jew parti mill-offerti li jaslulha, jew li taqşam l-appalt bejn żewġ kuntratturi jew iżjed.
  6. Il-formoli ta' l-offerta bil-ħlas tal-prezz iffissat fejn applikabli u kull tagħrif ieħor dwar il-kundizzjonijiet tal-kuntratt jistgħu jinkisbu minn dan l-Uffiċċju, f'kull gurnata tax- xogħol bejn it 8.30 ta' fil-ghodu u nofs in-nhar.
  7. Il-konferma ta' l-aċċettazzjoni tista' l-ewwel tiġi mogħtija lil min ikun ħa l-offerta bil-fomm jew b'telex, telegrammi, telefax jew l-ittra ta' aċċettazzjoni tiġi mibgħuta fi żmien għaxart ijiem (10) tax-xogħol mid-data ta' din il-konferma.
5. MCST reserves the right to accept or reject, wholly or in part, if the tenders received, or to divide the service among two or more contractors.
  6. Forms of tenders against payment where applicable of the prescribed fee and any further information regarding the conditions of the contract may be obtained on application at this office, on any working day between 8:30am and noon.
  7. Confirmation of acceptance may in the first instance be communicated to the tenderer verbally or by telex, cable, telefax, letter or other available means and in any such case the formal letter of acceptance will be despatched within a further ten (10) working days from such confirmation.

## Table of Contents

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	<b>Page No</b>
MCST Notice	i
01. Introduction	1
01.1 Objective	1
01.2 Issuing Office and Awarding Authority	1
01.3 Response	1
01.4 Submissions	1
01.5 Appeals Board	2
01.6 Data Protection Clause	2
01.7 Interpretation or Correction of the ITT Document	2
01.8 Addenda	3
01.9 Arbitration	3
02. Requirements	4
02.1 Malta Council for Science and Technology Profile	4
02.2 Background and Tender Objectives	4
02.3 Required Services	5
02.4 Timeframes	5
02.5 Terms of Engagement	6
02.6 Required Qualifications and Experience	6
02.7 Remuneration	6
02.8 Travel	6
03. Tender Procedure and Regulations	7
03.1 Eligibility	7
04.2 The Evaluation Methodology	7
03.3 Evaluation Criteria	7
03.4 Publication of Results	7
03.5 Grounds for Disqualification	7
Appendix A – Tender Response Form	9
Appendix B – MCST Tender Regulations	11
Appendix C – Appeals Procedure	12

## 01. Introduction

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### 01.1 Objective

The Malta Council for Science and Technology (MCST) invites suitably qualified individuals and organisations to submit proposals for the provision of **Consultancy Services** in the area of **Public Procurement for Innovation** to the MCST. Further details regarding the required services and terms of engagement are provided in Section 2 of this document.

### 01.2 Issuing Office and Awarding Authority

This ITT is being issued by the MCST. The contact details for matters relating to this ITT are as follows:

The CEO,  
Malta Council for Science and Technology  
Villa Bighi  
Bighi KKR 1320  
Malta  
Telephone: +356 2360 2118  
Fax: +356 2360 2140

The MCST:

- reserves the right to cancel this ITT process without incurring any penalty or cost;
- may, at its own discretion, decide not to select any proposal or not to award any Contract even the most advantageous offer;
- reserves the right not to consider offers that have missing mandatory information;
- may disqualify the Bidder if it does not abide with the above instructions.

### 01.3 Response

Interested bidders are requested to submit their responses using the form in Appendix A together with the following supporting documentation:

- A Curriculum Vitae (EU format)
- Photocopies of tertiary qualifications
- Other supporting documentation

Incomplete or incorrectly filled in forms will be disqualified.

### 01.4 Submissions

Each submission must be presented in the form of **one** (1) printed copy. Information supplied by the Bidder in response to this tender will be treated as confidential and all materials provided by the Bidder are non-returnable.

The closing date and time for the submission of responses to this Invitation to Tender (ITT) is **1200 hours (noon)** Malta time on **Friday 12 September 2008**. Responses and any related supplementary information are to be drawn up in English ONLY and should be clearly marked:

**Provision of Consultancy Services (Public Procurement for Innovation)  
to MCST – MCST 04/2008.**

The submissions are to be deposited in the tender box between the hours of 0900 and 1600 at:

Malta Council for Science and Technology (MCST)  
Villa Bighi  
Bighi KKR 1320  
Malta

Late submissions will not be considered. Clarifications and addenda will be notified through the website: <http://www.mcst.gov.mt>.

### **01.5 Appeals Board**

This ITT is being published and awarded, subject to the appeals board procedure as set forth in the Financial Administration and Audit Act (Cap 174), Legal Notice No. 177 Public Contracts Regulations 2005 published in the Government Gazette No. 17775 dated 3<sup>rd</sup> June 2005. A copy of the relevant Part XIII of these regulations is being included with this ITT document.

### **01.6 Data Protection Clause**

The information collected on this form shall be processed in accordance to the Data Protection Act 2001. The contents of this document are confidential (Public Contracts Regulations Subsidiary Legislation paragraph 44) and intended solely for the use of this ITT process, and will not be disclosed or copied without the Bidder's consent to anyone outside the Government of Malta unless the law permits us to do so.

### **01.7 Interpretation or Correction of the ITT Document**

- 01.7.1 A Bidder shall promptly notify the CEO, MCST of any ambiguity in or discrepancy between any of the ITT documents which they may discover upon examination of these documents.
- 01.7.2 A Bidder requiring clarification or interpretations of the ITT document should do so in writing. The written request should reach The CEO, MCST at least four (4) days prior to the closing date of receipt of the tenders. Any request after this date will not be accepted.
- 01.7.3 Any interpretations, corrections or changes to the ITT document by The CEO, MCST will be made by official addenda which shall be communicated to all Bidders. Interpretations, corrections or changes made in any other manner will not be valid, and Bidders shall not rely upon such interpretations, corrections and changes.

## 01.8 Addenda

- 01.8.1 No addenda shall be issued later than six (6) days prior to the last date of receipt of responses with the exception of an addendum postponing the closing date of receipt of responses or notice of withdrawal of this ITT.
- 01.8.2 Each Bidder shall ascertain, prior to submitting the response, that he or she has received all addenda issued and shall acknowledge their receipt in his or her response.

## 01.9 Arbitration

- 01.9.1 Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the rules of the Malta Arbitration Centre as at present in force.

## 02. Requirements

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### 02.1 Malta Council for Science and Technology Profile

The Malta Council for Science and Technology (MCST) was established in 1989 to provide advice on Science and Technology Policy to the Government of Malta. Its current responsibilities are as follows:

- to provide policy advice to the government on Science and Technology Policy as well as on Research, Technological Development and Innovation (RTDI);
- to promote the EU Framework Programme for Research in Malta;
- to manage the local R&I funding programme.

Besides the performance of its core responsibilities, the MCST regularly engages in projects and activities funded by the EU in support of its mandate. In addition, it is often requested to provide reports, information and statistics related to its area of competence.

### 02.2 Background and Tender Objectives

In the autumn 2007, the Commission issued a Communication "Putting knowledge into Practice: a broad based innovation strategy for the EU" which underlined the urgency for a European public procurement strategy to drive demand for innovative goods and services (IP/06/1181).

The National Strategic Plan for Research and Innovation 2007 – 2010 also includes a recommendation that the MCST and the Department of Contracts work together towards the development of a framework for enabling Public Procurement for Innovation in the local administration. The MCST started the ball rolling with the organisation of a seminar on the subject in May 2007, together with a follow-up seminar last May 2008.

The MCST now wishes to undertake a project with the following broad objectives:

- To review existing public procurement practices and assess any changes necessary to enable Public Procurement for Innovation;
- To identify a suitable pilot for Procurement for Innovation;
- To oversee the preparation, issuing and evaluation of the pilot tender;
- To prepare process guidelines (design of tenders, evaluation criteria, etc.)
- To develop an implementation plan for rollout of Public Procurement for Innovation to the public administration and government entities.

### 02.3 Required Services

The MCST is seeking, through this tender, to identify an individual to manage all aspects of the planned project through provision of consultancy and project management services in the area of Public Procurement for Innovation.

The planned activities together with indicative resource hours are listed below:

1. Preparatory work (estimated at 40 hours)
  - Review of EU policy documents
  - Review of initiatives in other countries
2. Working Group (estimated at 40 hours)  
Establishment of a working group and acting as rapporteur for the group. Participants would probably include MRRA, MFEI, DOC, Malta Enterprise, FOI.

3. Analysis of public procurement in Malta (estimated at 40 hours)  
Identifying key sectors of public procurement and those with high potential for utilisation of the 'Procurement for Innovation' concept.
4. Prepare Guidelines (estimated at 160 hours)  
To review existing public procurement practices and assess any changes necessary to enable Public Procurement for Innovation.
  - Guidelines for drafting tender specifications
  - Guidelines for evaluation of tenders
5. Pilot (estimated at 200 hours)  
To identify a possible suitable areas for procurement for innovation. To identify one suitable pilot for Procurement for Innovation
  - To oversee the preparation, issuing and evaluation of the pilot tender
  - To prepare process guidelines (design of tenders, evaluation criteria, etc.)
  - To develop an implementation plan for rollout of Public Procurement for Innovation to the public administration and government entities.
6. Strategy and Implementation Plan (estimated at 80 hours)  
To prepare a Strategy and Implementation Plan for rolling out Public Procurement for Innovation for the period 2009-2013.
7. Dissemination (estimated at 40 hours)
  - Preparation of a guide/brochure and website content
  - Presentations and training for public service, public sector entities
  - FOI, Chamber of Commerce, GRTU, other industry
  - Public seminar

## 02.4 Timeframes

Indicative timeframes for the planned activities are as follows:

<b>September 2008:</b>	<b>Start-up</b>
<b>Month 6:</b>	<b>Completion of phases 1 and 3</b>
<b>Month 9:</b>	<b>Completion of Phase 4</b>
<b>Month 12</b>	<b>Completion of Phase 5</b>
<b>Month 12</b>	<b>First draft Strategy for public consultation</b>
<b>Month 18</b>	<b>Finalised Strategy and Draft Action plan for public consultation</b>

## 02.5 Terms of Engagement

It is the intention of MCST to engage an individual to provide the required services on a definite, part-time, ad hoc basis. The contractual agreement will be a 'Contract for Service' type of contract.

The engagement will be for a period of one year, renewable on an annual basis at the discretion of the MCST for a maximum total duration of three years.

## 02.6 Required Qualifications and Experience

The MCST is looking for individuals with the following qualifications, competencies, skills, knowledge and experience:

1. A first degree from a recognised University.
2. At least five years work experience in the development of strategy and / or in project management.
3. Knowledge of recent thinking in the area of Innovation Policy and in particular Public Procurement for Innovation.
4. Good writing skills.

The following will be considered advantageous:

1. An MBA from a recognised University.
2. Legal background and knowledge of Maltese and EU procurement legislation.
3. Knowledge of public procurement procedures.

## 02.7 Remuneration

Remuneration for services provided through this tender will be at the rate of €15 / hour inclusive of VAT.

## 02.8 Travel

The required consultancy services may involve an element of travel, and bidders are requested to indicate their willingness to travel in the response sheet.

Travel time will be remunerated at the contracted rate and will be calculated as the number of hours during the normal working day (0800 – 1700) during which the individual was travelling, up to a maximum of eight (8) hours per working day.

Individuals will be given a per diem in accordance with standard MCST policy to cover accommodation and subsistence.

Individuals may be required to provide their own travel arrangements.

## 03. Tender Procedures and Regulations

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### 03.1 Eligibility

Bidding will be open to both individuals and organisations. In the latter case, the submission must include at least one and not more than two named individuals who are being nominated to provide the service and any eventual selection shall be linked to those particular individuals.

### 03.2 The Evaluation Methodology

The entire evaluation procedure is confidential and the Evaluation Committee meetings will be held in closed session. The members of the Evaluation Committee are bound to secrecy.

The evaluation reports and written records, in particular, are for official use only and may not be communicated either to the Bidders or to any party.

### 03.3 Evaluation Criteria

The selection process will seek to identify the bidder most qualified to undertake the required tasks as specified in section 02.2, and will be based on the following criteria:

- Qualifications and their relevance to the task at hand..
- Relevant work experience.
- Track record.

The MCST reserves the right to introduce additional evaluation procedures including but not limited to interviews and psychometric tests.

### 03.4 Publication of Results

Once the CEO approves the recommendations made by the Evaluation Committee, the MCST will advise all bidders of the result of the evaluation.

In line with the Procurement Regulations, a period of 14 working days shall be allowed to provide for any possible appeals to be made before the next stage of the process can be proceeded with.

### 03.5 Grounds for Disqualification

The MCST may at its discretion disqualify a submission on one or more of the following grounds. If the Bidder:

- i. is bankrupt, or whose affairs are being administered by the court, who has entered into an arrangement with creditors or who has suspended business activities or who is in any analogous situation arising from a similar procedure under national laws and regulations;
- ii. is the subject of proceedings for a declaration of bankruptcy, or administration by the court or for an arrangement with creditors or of any other similar proceedings under national laws or regulations;
- iii. has been convicted of an offence concerning his professional conduct by a judgement which has the force of res judicata;
- iv. has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of Malta or the country in which he is resident;

- v. has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of Malta or the country in which he is resident;
- vi. has been declared guilty of grave professional misconduct proven by any means which the Department of Contracts deems conclusive;
- vii. is guilty of misrepresentation in supplying the information required under this contract notice.

## Appendix A –Tender Response Form

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### Provision of Consultancy Services (Public Procurement for Innovation) to the Malta Council for Science and Technology

Notice Number            MCST 04/2008  
Closing Date             **1200 hours 12 September 2008**  
Date of Publication      22 August 2008

#### Section 1 - Organisation Details (if applicable)

This section should only be filled in if the submission is being made on behalf of an organisation.

Organisation Name	
Registered Address	
Local Address (if different from above)	
Year organisation was founded	
VAT Number	
Website address:	
Name of contact person	
Position of contact person	
Email address of contact person	
Telephone Number(s):	
Fax Number(s):	

#### Section 2 – Individual Details

In the case of a submission by an individual in his or her own capacity, kindly include your details in this section.

In the case of a submission being made on behalf of an organisation, this section should include the details of the individual or individuals being nominated to provide the required services.

##### Individual 1

Name & Surname	
Address	
ID Number	
Telephone Number(s):	
e-Mail address	
VAT Number	
Confirm willingness to travel	

**Individual 2 (optional)**

Name & Surname	
Address	
ID Number	
Telephone Number(s):	
e-Mail address	
VAT Number	
Confirm willingness to travel	

**Section 3 – List of enclosed documents**

1	Curriculum Vitae
2	Photocopies of tertiary qualifications
3	
4	

**Section 4 – Declaration / Conflict of Interest**

I/We ..... (contractor's name)

declare that the information submitted in this application is correct

and warrant, under my/our sole responsibility, that at the time of entering into any contract for service with the Malta Council for Science and Technology (MCST), throughout the duration of any such contract, and for three (3) months thereafter, neither the contracting individual/company nor any of its associated companies or their directors is or shall be in business, or has or shall have commercial, or employer / employee relations with any employee or consultant of the MCST, whether directly or indirectly, full or part-time, paid or unpaid, in a consultancy or in any other role or form whatsoever without the prior written consent of the MCST.

I/we understand and accept that this warranty may be made public by MCST if, in the company's considered opinion, circumstances arise which warrant such publicity.

I/we understand and accept that any infringement of this warranty may, at the discretion of the MCST, result in severance of any or all contracts of supply between an offending contractor and MCST. This shall not prejudice any rights pertaining to MCST which rights shall have arisen prior to any severance of contract as above stated.

Name of individual/company director .....

Signature .....

Date .....

## Appendix B – MCST Tender Regulations

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MCST issues tenders in line with the Legal Notice of 2005 on Public Procurement Regulation

- 1 MCST is not bound to accept the lowest or any tender.
- 2 MCST reserves the right of accepting any tender wholly or in part, or of dividing the contract among two or more Bidders.
- 3 Any soliciting will render the Bidder'(s) proposal invalid. If evidence of canvassing is discovered after award of tender, MCST shall be entitled to cancel any agreement or contract with the offending Bidder. The Bidder will also be liable for any damages incurred by MCST directly arising from such a cancellation.
- 4 The tender will be conducted in English, and all documentation and correspondence will be in ENGLISH ONLY.
- 5 During the tender evaluation, the Bidder may be asked to supply further clarification to his proposal and any additional documentation relating to his solution.
- 6 Bidders are required to provide upon request a certificate issued by the Employment and Training Corporation, indicating the number and details of employees duly registered with the Corporation. In those cases where Bidders intend to sub-contract part of the works, they shall, upon request, produce an authentic certificate from ETC indicating the respective Registration number of the nominated sub-contractors. Any Bidder or sub-contractor who fails to provide the required certificate when requested to do so, will not be eligible for the award of the contract.

With regard to supply contracts, MCST reserves the right to request the submission of the ETC Certificate, prior to the award of the contract, in respect of that part of the contract which may involve local labour (for example, installation, commissioning or maintenance). This will apply also in those cases where the Bidder is a foreign firm that intends to utilise local sub-contracting for the elements of the contract just mentioned. The proviso in the last sentence of the preceding paragraph shall also apply in such cases.

- 7 Bidders shall bear all costs associated with the preparation and submission of their tender and any costs incurred in preparing subsequent presentations or attendance at same. MCST shall not be responsible or liable for any costs or expenses regardless of the conduct or outcome of the tender process.
- 8 Bidders are expected at all times to honour their commitment if awarded the contract. Performance monitoring of the contract will influence the adjudication of future tenders.

## Appendix C – Appeals Procedure

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### **COPY OF PARAGRAPH 83 PART XIII OF PUBLIC CONTRACT REGULATIONS, 2005 FOR THE GUIDANCE OF TENDERERS.**

#### **PROCEDURE FOR THE SUBMISSION OF APPEALS**

*Copy of Part XIII of Public Contract Regulations, 2005 for the guidance of tenderers.*

(1) Any tenderer who feels aggrieved by a proposed award of a contract and any person having or having had an interest in obtaining a particular public supply, public service or public works contract and who has been or risks being harmed by an alleged infringement may, within fourteen working days of the publication of the decision, file a notice of objection at the Department of Contracts or the contracting authority involved as the case may be. Such a notice of objection shall only be valid if accompanied by a deposit equivalent to one per centum of the estimated tender value, provided that in no case shall the deposit be less than Lm 200 or more than Lm 25,000. The Head of a contracting authority shall immediately notify the Director that an objection had been filed with his authority thereby immediately suspending the award procedure. The department of Contracts or the Contracting Authority involved as the case may be, shall be precluded from concluding the contract during the period of 14 working days allowed for the submission of appeals. The award process shall be completely suspended if an appeal is eventually submitted.

(2) The procedure to be followed in submitting and determining complaints as well as the conditions under which such complaints may be filed shall be the following:

- i. Any decision by the General Contracts Committee (or a Special Contracts Committee) and by a Contracting Authority, shall be made public at the Department of Contracts or at the office of the Contracting Authority prior to the award of the contract.
- ii. The notice of objection duly filed in accordance with sub-regulation (1) above shall be made public by not later than the next working day following its filing.
- iii. Within three working days of the expiry of the fourteen-day period allowed for the filing of a notice of objection, any other tenderer and any person having or having had an interest involved in the call for tenderers may register an interest in the proceedings. The registration of interest shall only be valid if accompanied by a deposit amounting to the deposit paid under sub-regulation (1) above. The tenderer who had been indicated in the adjudication decision of the Director or the Contracting Authority as the one to whom the contract was to be awarded, shall be deemed to have registered an interest but does not need to pay a deposit.
- iv. The names of the tenderers or other person having or having had an interest in obtaining a particular public contract who register an interest shall be made public on the first working day after the lapse of the time limit specified in paragraph (iii) hereof.
- v. (a) Within three working days after the publication of the list of persons who register an interest, the tenderer filing the notice of objection shall send a reasoned letter of objection explaining the objection.  
  
(b) The letter of objection and any accompanying documentation shall be submitted in a number of copies that equals the number of tenderers with a registered interest, plus three.  
  
(c) The letter of objection shall be made public and shall be circulated to all persons with a registered interest.
- vi. (a) Within five working days from the publication of the letter of objection, any tenderer who had registered an interest may send a reasoned reply to the letter of objection.  
  
(b) The reply and any accompanying documentation shall be submitted in a number of copies that equals the number of tenderers with a registered interest, plus three.  
  
(c) The reply shall be made public and shall be circulated to all tenderers with a registered interest and to all tenderers who have filed an objection.

- vii. Within ten working days of the publication of the replies the Director or the Head of the contracting authority shall prepare a report (the Analysis Report) analysing the letter of objection and the replies thereto. This report shall be circulated to the persons who file an objection and who have a registered interest. After the preparatory process is duly completed, the Head of the contracting authority shall forward to the Director of Contracts all documentation pertaining to the call for tenders in question including files, tenders submitted, copies of deposit receipts, any motivated letter, analysis report, etc.
- viii. The Director shall forward all the documentation related to any appeal case to the Chairman of the Appeals Board who shall then proceed as stipulated in Part XIV of these regulations.
- ix. The Director or the Head of the contracting authority shall publish a copy of the decision of the Appeals Board at his department or at the premises of the relevant contracting authority, as the case may be. Copies of the decision shall be forwarded to the complaining tenderer, any persons who had registered or had an implied interest and, by the Director only, to the contracting authority concerned when this is one listed in Schedule 2.

(3) Complaints in terms of this Part may only be submitted in respect of public contracts awarded by Authorities listed in Schedule 1 whose value exceeds Lm 20,000.

### **Regulation 33 of the Public contracts Regulations, 2005 – Appeals Board**

(1) There shall be established a public contracts Appeals Board to be known as the Appeals Board which shall be regulated in terms of Part XIV of these regulations.

(2) It shall be the function of the Board to hear and determine complaints submitted by any person having or having had an interest in obtaining a particular public supply, public service or public works contract and who has been or risks being harmed by an alleged infringement by those Authorities listed in Schedule 1 of these regulations and whose value exceeds LM20,000 in accordance with the procedures laid down in Parts XII and XIII of these regulations.

(3) Every Contracting Authority listed in Schedule 1 shall indicate in its tender documents that the award of the contract is subject to the appeals procedure as set forth in these regulations. The document shall include a copy of Parts XII or XIII, as the case may be, of these regulations for the guidance of tenderers.