



## **e-Reverse Auction Guidelines for MDB Financed Procurement**

## Introduction

Borrowing countries are increasingly inclined to use electronic procurement systems and means for processing and managing MDB funded activities.

Where e-GP systems are intended to be used for **e-reverse auctions<sup>1</sup> (e-RA) for works, goods or services under MDB financed procurement**, the MDB administering division or resident office administering the project will, consistent with any approved delegations, evaluate the e-reverse auction features, standards and operations to ensure it satisfies the conditions that follow in this guide.

Not all procurement is suitable for **e-reverse auction**. Such methods should deal only with contracts for which the specifications can be determined with precision, where price is the only determinant and where there exist significant numbers of potential bidders. It must also be possible to transparently establish the respective ranking of the bidders at any stage of the electronic auction. Those aspects of the bids which imply an assessment of non-quantifiable elements should not be the object of electronic auctions. Care must also be taken not to apply such methods in markets where they may be especially vulnerable to market manipulation or anti-competitive behaviour such as collusion. Markets with only a limited number of independent qualified bidders, or markets dominated by one or two major players will be especially vulnerable to this danger.

Some governments consider e-reverse auction to be a special case of e-bidding while others see it as part of e-Purchasing. e-reverse auction is perhaps more a special case of e-Purchasing rather than e-Bidding – that is it is suitable for simple well defined purchases (usually off-the-shelf) where the determining factor is price or quantity and where a considered evaluation process (common in e-bidding) is not required. The UNCITRAL Working group have analysed this point of treating e-reverse auction as a procurement method in itself or alternatively as an optional phase in other procurement methods. UNCITRAL concluded that the general agreement was that it would be preferable to base the draft provisions on the use of e-reverse auction as a procurement method in itself. This is the approach adopted here by the MDBs.

For UNCITRAL an e-reverse auction is described as an online, real-time dynamic auction between a buying organization and a number of suppliers who compete against each other to win the contract by submitting successively lower priced bids during a scheduled time period.<sup>2</sup>

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<sup>1</sup> The European Union defines "electronic auctions" as "a repetitive process involving an electronic device for the presentation of new prices, revised down-wards, and/or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods."

<sup>2</sup> (United Nations Commission on International Trade Law – UNCITRAL, Thirty-eighth session, Vienna, 4-15 July 2005, Report of Working Group I (Procurement) on the work of its seventh session, (New York, 4-8 April 2005)

## **E-Reverse Auction Guidelines**

### **1. System Preparation**

Where e-reverse auctions are to be applied to MDB funded activities they will have the following minimum features:

- 1.1 The procurement must be accurately specified and the purchase matter and requirements must be suitable for simple bidding processes where evaluation is solely in terms of price. Procurement proposals that include multiple variables and qualitative factors should not be subject to e-reverse auctions.
- 1.2 The auction scope and the evaluation criteria for selection and award of a contract must be clearly established and advertised, and more generally, the value of purchase should be high enough to make it commercially viable for a competitive supplier base, but not so high as to materially reduce competition.
- 1.3 The Contracting Authority must verify whether all operational conditions are met for starting the auction (e.g., if all participants are connected and whether conditions required for safe-guarding anonymity are in place).
- 1.4 There should be good intelligence on past transactions in the marketplace and market structure. Each auction should be carefully monitored for market manipulation. Auctions should not be used where the relevant market structure exposes them to significant risk of improper practice such as predatory pricing (low-balling) or collusion.
- 1.5 E-reverse auction should be applicable only for purchases below the International Competitive Bidding (ICB) threshold. E-reverse auction should be used only for procurement processes where price is the sole determining factor. This will generally be for goods only. Also e-reverse auction should not be used where it conflicts with the principle of open competition by locking-out significant numbers of otherwise eligible bidders who do not have access to the required technology.

### **2. Bidding Specifications**

The published specifications shall include, inter alia:

- 2.1 All conditions (e.g., the event and timing of the auction, rules for participation, valid bid increments, how to bid and whether the auction is divided into successive phases) as well as technical information needed to participate in the auction, the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

- 2.2 The information which will be made available to bidders in the course of the electronic auction and, where appropriate, when it will be made available to them.
- 2.3 Any other relevant information concerning the electronic auction process.

### **3. Advertising**

- 3.1. The notification of an e-reverse auction shall be posted on a publicly accessible web site (or the Official site where this exists) that is well known, well maintained, functional, and affords free and unrestricted access. Concurrent advertising may also be required on additional sites and media according to specific requirements of individual MDBs
- 3.2. The notification should include all the specifications, terms and conditions for the proposed contract. A pro forma contract should be available online with the notification.
- 3.3. The notification period will be measured from the date of publication on the required sites / media, and where these dates vary the date of publication will be whichever is later. A secure log of these entries should be available for audit as required.
- 3.4. The Reverse Auction Notice must mention that an e-reverse auction will be used.
- 3.5. Contracting Authorities shall ensure the integrity of Master documents in electronic format, and their online publication. Modifications must be similarly secure and stored with the Master. Contracting Authorities shall inform bidders where such Master documents can be accessed.

### **4. Operation**

- 4.1. The Contracting Authority shall run the auction according to information specified in the invitation to the e-reverse auction. The auction device shall collect electronically and without human intervention anonymous bids which shall be automatically ranked by the system. It shall inform bidders instantaneously of new ranking(s) as they occur, together with price in such a way that bidders are able to ascertain their ranking at any moment.

- 4.2. Under no circumstances shall the identities of the bidders be able to be disclosed or identified by any party during any phase of the auction.
- 4.3. If a bidder submits an invalid bid it will be notified online immediately with a message explaining why the bid is rejected.
- 4.4. When deciding to give out additional information, the contracting authority shall verify that this information does not distort competition and informs all bidders simultaneously.
- 4.5. The Contracting Authority shall close the auction in accordance with the option it has specified. Closure will be either (a) at the time and date as previously published, or (b) when a previously advertised time period has elapsed during which no new valid bids have been received. It shall immediately inform bidders about auction closure including any decision to extend the specified deadline. Under no circumstances shall the auction be closed before the deadline has lapsed.
- 4.6. The Contracting Authority shall monitor whether there is improper use of the reverse auction including for example evidence of collusion, interference with the proper operation of the technology, etc. Bidders (including their subsidiaries) found to have engaged in collusive activities or other improper practices will be treated in accordance with MDB policies and practices on anti-corruption.

## **5. Correspondence, Amendments, and Clarifications**

- 5.1. All pre-auction clarifications and amendments of the bidding documents, as well as any pre-auction conference minutes, shall be posted simultaneously onto the bid advertising website. Whenever possible these should also be emailed to businesses that have previously shown an interest.
- 5.2. Modifications to any of the procedures, operations, specifications or conditions by any operator will be tracked and recorded for audit. Systems should ensure that only authorized changes can be made.
- 5.3. No bidding documents will be available to any party in advance of the advertising of the opportunity as in Section 3.
- 5.4. Contracting Authorities shall track receipt by bidders when distributing pre-auction amendments and clarifications online.
- 5.5. Where Contracting Authorities stage online pre-auction conferences and clarifications, including for example online

conferencing and chat facilities, such facilities shall not function once an e-reverse auction begins.

## **6. Access**

- 6.1. Access will be open, equal and unrestricted to all eligible bidders. The process shall also be transparent to all observers without restriction.
- 6.2. Where suppliers are required to pre-qualify, the pre-qualification processes must be approved in accordance with the open and public bidding processes of the MDBs defined elsewhere in the e-bidding rules, request-for-quotation rules (for small value transactions) or other publications. A reverse auction shall not be used if pre-qualification has reduced the number of bidders to a level that materially affects competition, and under no circumstances shall there be less than three independent bidders.
- 6.3. Where pre-qualification occurs an electronic invitation will be issued to admissible bidders simultaneously, informing them of the e-reverse auction. Prospective bidders must be contacted electronically at least 2 working days before start of the auction.
- 6.4. Contracting Authorities shall not charge any fees to bidders other than for value-added services (e.g. automatic notification of business opportunities). In such cases bidders shall be offered an electronic payment facility (e.g. electronic check, credit card) to avoid situations where bidders incur charges online, but must visit an office to pay for them.
- 6.5. The e-reverse auction system should be interoperable through open standards with ICT products in common use accessible by users through readily available and commonly used browser software. If specialized software is necessary, this should also be downloadable and not result in any compatibility issue.
- 6.6. The system should perform reliably and securely in time-sensitive, commercial application consistent with the number of bidders participating.

## **7. Bid Securities**

In order to facilitate the procurement process when using electronic systems or means, bid securities are not encouraged. Contracting Authorities may employ other measures, such as requiring bidders to sign a declaration and/or sanctioning bidders who do not honor bids

## **8. Bid Evaluation and Contract Award**

- 8.1. An e-reverse auction award shall be based solely on prices where the contract is awarded at the lowest price to the corresponding qualified bidder.
- 8.2. Contract awards from reverse auctions should immediately be published online, together with the winner and the awarded price.
- 8.3. There shall not be any negotiation during or after the e-reverse auction process is closed.

## **9. Information Security Management**

- 9.1. For any e-reverse auction processes engaged internally or through third parties, the Borrower shall develop, maintain and implement an information security management system that conforms with international standards<sup>3</sup> for information management and takes account of recognized best practice, including but not limited to asset security, access security, human resource security, operations management and business application controls, documentation and script sufficiency and security, physical and online security, business continuity, record keeping and compliance.
- 9.2. There should be no outstanding audit issues that represent material risk to the integrity or security of any project
- 9.3. Contracting Authorities shall indicate in the bidding documents procedures to be followed in the case of any failure, malfunction, or breakdown of the electronic system used during the auction process.
- 9.4. E-REVERSE AUCTION systems and information security shall ensure that secure records are kept of every process, procedure, transmission, receipt, transaction in terms of the content, executing individual and authorizations, time and date. These records shall be made available for audit on request.
- 9.5. Time source. E-REVERSE AUCTION systems shall use an international standard for time, related to an external source known and available for all the bidders.

## **10. Authentication**

Where a Digital Certification/Signature is required the following shall apply:

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<sup>3</sup> such as ISO/IEC 17799:2001, AS/NZS 7799.2:2003, HB 231:2000

- 10.1 The certification process shall certify bidders for a reasonable period of time (at least one year) and bidders shall not be required to request a certification for each bidding process.
- 10.2 The certification process shall be kept open permanently allowing bidders to submit the request for certification at any time in order to allow them to register in advance for future bidding processes.
- 10.3 The certification process shall allow bidders to take all actions required for their certification within their own countries, without the need to travel abroad.
- 10.4 The certification process shall accept an electronic signature or a digital certification/signature issued by certifying authorities within the country of the bidder, or the process shall accept submission of online or offline documentation for certifying the authenticity of the bidder representative, accepting such documentation that can be obtained under commonly used procedures in the country of the bidder (for example, no notarization in consulate or embassy shall be required).
- 10.5 The certification process shall not require bidders to submit mandatory information with origin outside the bidders own country.

## **11. Other Conditions**

- 11.1 Executing agencies may use e-reverse auction systems operated by a third party under a service contract arrangement. Third party service providers and their subsidiaries or parent companies shall be ineligible to be awarded contracts on procurement processes that are undertaken through the said e-reverse auction system. Irrespective of who operates the system all requirements and conditions of this Guide shall apply.