

CLARIFICATION TO BIDDERS: CENTRAL ELECTRONIC MONITORING SYSTEM – TENDER SC/RP/GBN-01/2026

The Gambling Board of Namibia (GBN) acknowledges the clarification request concerning the participation of foreign firms, compliance with section 50 of the Public Procurement Act, 2015, as amended, the absence of a mandatory requirement for foreign bidders to partner with Namibian firms, and the associated concerns regarding data security.

Having considered these matters against the provisions of the Public Procurement Act and the requirements already contained in the Request for Proposals (RFP), the Board provides the following clarification.

1. Nature of the procurement and International participation

The procurement of the Central Electronic Monitoring System (CEMS) is, by its nature, a specialised and technically complex procurement.

The CEMS is intended to provide the Board with a remote, online and real-time electronic monitoring capability for gambling activities and transactions across licensed gambling operations in Namibia. The Terms of Reference require, amongst other capabilities, collection and analysis of gambling data, regulatory monitoring, monitoring of online gambling and cross-border transactions, detection of illegal activities and money laundering, and integration with gambling machines and other gambling activities.

The system being procured is not currently developed and available within Namibia. The Board must therefore access the international market to obtain the specialised technology, experience and proven systems necessary to implement the CEMS. The participation of foreign firms is consequently not incidental to this procurement; it arises from the nature of the requirement and the market from which the required technical capability must be sourced.

2. Request for proposals as the appropriate procurement method

Although the procurement is international in its market reach and participation, the Board has elected to utilise the Request for Proposals (RFP) methodology because of the complexity of the system being procured. International participation determines the market from which capable bidders are sourced, while the RFP determines the procurement methodology through which competing technical and financial solutions are solicited and evaluated.

The Board is not procuring a standardised, off-the-shelf product where bidders can be evaluated principally on compliance with predetermined specifications and price. The procurement requires bidders to propose a complete CEMS solution, including its architecture, customisation, deployment, integration, cybersecurity, data protection, maintenance, training, support and long-term sustainability. The RFP itself accordingly provides for Quality and Cost Based Selection (QCBS) and requires separate Technical and Financial Proposals. The technical proposal is evaluated before the financial proposal, and only bidders meeting the prescribed technical threshold proceed further in the process.

The evaluation methodology further contains separate stages for eligibility, administrative compliance, mandatory documentation, technical evaluation, system presentation/demonstration, financial evaluation and margin of preference. The use of an RFP is therefore appropriate to the complexity of the CEMS because it allows the Board to assess not merely what a bidder is offering, but how the bidder proposes to design, customise, implement, secure, support and maintain the solution.

3. Namibian participation is not a mandatory requirement of this RFP

The Public Procurement Act distinguishes between procurement methods and the circumstances under which participation may be restricted.

Section 29 of the Act specifically provides for Open National Bidding and permits a public entity to limit participation in open advertised bidding to Namibian citizens or qualifying entities with the prescribed level of Namibian ownership. The present procurement is not an Open National Bidding process.

There is consequently no basis in this RFP for imposing a mandatory requirement that every foreign bidder must form a joint venture with, subcontract to, or otherwise partner with a Namibian firm as a condition of eligibility. Indeed, the Instructions to Consultants expressly contemplate association as an option. A consultant that considers that association would enhance its expertise may associate with another consultant through a joint venture or sub-consultancy. The wording is permissive rather than mandatory.

This is reinforced by ITC 1.10, which expressly provides that:

“Goods supplied and Consulting Services provided under the Contract may originate from any country” subject to the exclusions specified in that provision.

The RFP therefore does not require a foreign bidder to establish a Namibian joint venture merely to qualify to participate. This must, however, be distinguished from national preference and local economic participation. The Act and applicable Code of Good Practice permit preference mechanisms intended to promote Namibian ownership, employment and participation. The RFP gives effect to this separately through its Margin of Preference evaluation phase.

Accordingly, eligibility to participate and entitlement to preference are separate procurement considerations. A foreign bidder may be eligible to participate without a Namibian joint-venture partner, while a qualifying Namibian bidder or qualifying arrangement may benefit from the applicable preference provisions.

4.Application of section 50 requirements to foreign bidders

Section 50(2) of the Public Procurement Act, as amended, prescribes the statutory documentation to be submitted by bidders. The provision requires, amongst others:

- “(a) a valid certificate of good standing with the Receiver of Revenue;
- (b) a valid certificate of good standing with the Social Security Commission...”

and the applicable affirmative action documentation, labour undertaking and prescribed evidence relating to the legal constitution or registration of the bidder.

The provision is prescriptive as to the documents required. It does not provide for the submission of “equivalent” tax, social security or affirmative action certificates issued by foreign jurisdictions. More importantly, the treatment of this requirement is already expressly addressed in the CEMS RFP.

Paragraph 3.4 of the Data Sheet identifies the section 50 documentation and thereafter states:

“Requirements (i) to (iv) shall not apply to foreign (non-Namibian) firms. However, where a foreign firm submits a bid in joint venture with a local firm, the local firm shall be required to fully comply with these requirements, in accordance with Section 50 of the Public Procurement Act, 2015 (Act No. 15 of 2015), as amended.” The bidding document therefore already provides an unambiguous answer to this aspect of the clarification.

A foreign bidder participating independently is not required by this RFP to submit foreign “equivalents” of the Namibian statutory certificates identified in paragraph 3.4(i)–(iv).

Where a foreign bidder voluntarily participates through a joint venture with a Namibian entity, the Namibian member must comply with the requirements applicable to it.

This does not place the joint venture at a disadvantage. It simply recognises that a Namibian entity participating in the procurement remains subject to the statutory requirements applicable to Namibian entities. Treatment of foreign bidders under the applicable Standard Bidding Document

This interpretation is further supported by the Procurement Policy Unit's Standard Bidding Document for the Supply and Installation of Information Systems – Single-Stage Bidding ,Link: ([IT-Single Stage](#)) which is the relevant standard framework for complex information-system procurement. The SBD itself states that it may be used for the procurement of complex information systems through Open International Bidding and that it was issued in terms of section 7(1)(i) of the Public Procurement Act.

Under ITB 13.1(f), the SBD expressly describes the relevant statutory compliance documentation as: *“following documentary evidence (required from Namibian bidders)”*

It then identifies, among others, company registration, tax good standing, Social Security good standing, affirmative action compliance and the required labour undertaking.

The significance of the words “required from Namibian bidders” is that the SBD does not require a foreign bidder participating in an Open International Bidding process to produce foreign equivalents of the Namibian statutory certificates merely because comparable documents may exist in its home jurisdiction.

Foreign bidders are nevertheless required to demonstrate their legal eligibility and qualifications in accordance with the other provisions of the bidding document. In particular, the SBD requires documentary evidence establishing that the bidder is legally incorporated in an eligible country and that it possesses the financial, technical and operational capability necessary to perform the contract.

The treatment of foreign bidders is therefore not an exemption from procurement scrutiny. It is a distinction between Namibian statutory compliance documentation and the broader eligibility and qualification requirements applicable to all bidders.

5.Data security concerns

The Board acknowledges that the CEMS will process highly sensitive regulatory, operational, transactional and potentially personal information. Data security is therefore a legitimate and material consideration in this procurement.

However, the security of the Board's data is not determined by the nationality or country of incorporation of the successful bidder. It must instead be addressed through the technical architecture, cybersecurity controls, contractual obligations, access controls, data governance, audit mechanisms and security standards imposed on the CEMS and the successful service provider.

The RFP has expressly incorporated these requirements.

The Terms of Reference require the CEMS to provide the Board access to all data originating from gambling machines, gambling activities and licensed premises. The system must provide adequate storage and protection of information and support the collection and retention of transactional data.

More specifically, paragraph 4.4.2 of the Terms of Reference requires the system to operate according to best international norms, standards and practices to ensure the:

confidentiality of data;

- integrity of data;
- availability of data; and
- protection of the reputation of the Board, licence holders and other relevant parties.

Paragraph 4.4.3 further requires the system to support data encryption or equivalent security measures for data transmitted across network links.

Paragraph 4.4.4 requires management of distinct user roles and access privileges, while paragraph 4.4.5 requires the maintenance of an audit trail identifying the time, date, terminal, user and changes made to critical data.

The RFP further requires standardised backup and recovery mechanisms, including automated daily and ad hoc backups and appropriate archiving arrangements. It also expressly requires the protection or scrambling of production data used for testing so that original personal information cannot be reconstructed.

These are substantive information-security controls rather than assumptions that data will be secure merely because a service provider is locally incorporated.

6. Cybersecurity is specifically evaluated

Data security is not only included in the Terms of Reference; it forms a substantive component of the technical evaluation. Under the technical evaluation, bidders are required to submit a detailed Cybersecurity and Data Protection Framework demonstrating security architecture, policies and controls protecting the confidentiality, integrity and availability of information.

The framework must address:

- access control;
- data protection;
- cybersecurity controls;
- incident management;
- data privacy compliance;
- continuous monitoring and auditing; and
- business continuity.

A bidder providing only general or insufficient information on encryption, incident response, continuous monitoring, data-protection compliance or cybersecurity standards receives a materially reduced score. Cybersecurity and data protection therefore form part of the competitive technical assessment rather than being dealt with merely after contract award.

7. Cybersecurity must also be demonstrated

The RFP goes a step further by requiring technically qualifying bidders to demonstrate their proposed systems.

During the presentation stage, bidders must demonstrate:

- encryption of data both in transit and at rest;
- robust access-control mechanisms;
- intrusion detection and prevention systems;
- backup and recovery arrangements;
- business-continuity capability; and
- readiness for penetration testing and vulnerability assessments.

The purpose of this demonstration is expressly to establish how the proposed CEMS will safeguard sensitive gambling information, withstand cyber threats and comply with applicable security standards.

A minimum score of 75% is required at the presentation stage before a bidder may proceed to financial evaluation.

The concern that permitting foreign bidders to participate necessarily exposes the Board to uncontrolled data-security risk is therefore not supported by the structure of the RFP. The procurement contains multiple technical and evaluation safeguards specifically directed at cybersecurity and data protection.

8.Foreign participation does not transfer regulatory control of the data

The appointment of a foreign service provider should also not be equated with the transfer of the Board's regulatory authority over gambling information.

The CEMS is being procured for the Gambling Board of Namibia, in fulfilment of the Board's statutory regulatory functions. The Terms of Reference require the Board to have access to all data generated through the CEMS from gambling machines, gambling activities and licensed premises.

The successful bidder will therefore provide, deploy and maintain the technological solution under the requirements of the RFP and the resulting contract. Its nationality does not remove the system from the contractual, regulatory, security and performance requirements imposed by the Board.

Where necessary, specific matters relating to hosting location, data residency, cross-border data transfers, ownership of data, access to production environments, retention, return or migration of data upon termination, incident notification and restrictions on third-party access should be expressly dealt with in the final contractual arrangements.

Such controls provide a more direct and technically defensible mechanism for protecting the Board's information than requiring a foreign technology provider to establish a joint venture with a Namibian company.

9.Local capacity development remains an important requirement

The absence of compulsory Namibian equity participation does not mean that the procurement disregards domestic capacity development. The RFP expressly identifies training as a critical component of the assignment and requires bidders to provide a comprehensive training methodology addressing the approach, content, duration and staffing arrangements.

The RFP also distinguishes between foreign and local professional staff and requires the proposed staffing inputs to be disclosed. Local capacity can therefore be promoted through training, skills transfer, employment of Namibian personnel, local technical support, subcontracting where appropriate and the applicable Margin of Preference provisions, without making a Namibian joint venture a mandatory condition of eligibility.

10.Conclusion

The Board therefore maintains the procurement approach set out in the RFP and confirms that, given the specialised and technically complex nature of the CEMS, foreign firms may participate without forming a joint venture with a Namibian entity, subject to all applicable RFP requirements. The section 50 requirements in paragraph 3.4(i)–(iv) do not apply to foreign firms participating independently, but a Namibian member of any voluntary joint venture must comply with the requirements applicable to it. Data security and the Board's regulatory control will be protected through the RFP's technical, evaluation and contractual safeguards, including provisions governing cybersecurity, data access, ownership, hosting, retention and cross-border processing, while local capacity development will be promoted through training, skills transfer, local staffing opportunities and applicable preference mechanisms.