



Tender Evaluation Guidelines

Procurement of Textbooks and Reading Materials

Public Procurement Regulatory Authority
P.O. Box 49,
Dar es Salaam.

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Preface

This Standard Tender Evaluation Guideline has been prepared by the Public Procurement Regulatory Authority (PPRA) for use by Procuring Entities (PEs) in the evaluation of tenders, in accordance with the provisions of the Public Procurement Act No. 9 of 2011 (hereinafter called PPA 2011), the Public Procurement Regulations- Government Notice No. 446 of 2013 The Local Government Authorities' Tender Boards (Establishment and Proceedings) Regulations - Government Notice No. 177 of 2007 (both hereinafter called Public Procurement Regulations).

This document is intended specifically for assisting in the evaluation of tenders procured through International Competitive Tendering (ICT) and National Competitive Tendering (NCT).

Upon notification of contract award to the successful tenderer by the PE, and in accordance with PPA 2011 and the Regulations, the Accounting Officer or Chief Executive Officer of the PE shall notify the PPRA stating who has been awarded the contract, the contract amount and the date when the award was made.

PPRA shall then publish in the Gazette, local newspapers of wide circulation in United Republic of Tanzania, and in its journal and website the names of those who have been awarded the contract, the contract amount, the date when the award was made, contract period, and the final contract amount paid to the supplier.

All users are invited to submit comments on their experience with this document to:

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Abbreviations and Acronyms

AG	Attorney General
TDS	Tender Data Sheet
CAG	Controller and Auditor General
CIP	Cost Insurance Paid to the name Place
CFR	Cost and Freight
CPT	Carriage Paid To
EXW	Ex-Works
FCA	Free Carrier
FOB	Free on Board
GCC	General Conditions of Contract
G.N.	Government Notice
GPN	General Procurement Notice
IFT	Invitation for Tender
ITB	Instructions to Tenderers
PE	Procuring Entity
PMU	Procurement Management Unit
PPA 2011	Public Procurement Act No.9 of 2011
PPRA	Public Procurement Regulatory Authority
Regulations	Government Notice No. 446 of 2013
STD	Standard Tendering Document
SCC	Special Conditions of Contract
TRM	Textbooks and Reading Materials

How to Use These Guidelines

1. The evaluation forms and guidelines contained in this document provide step-by-step procedures for the evaluation of bids solicited through International Competitive Tendering (ICT) and National Competitive Tendering (NCT). In all instances, the tendering and evaluation procedures described in the Instructions to Tenderers (ITT) of the actual tendering document used should be followed.
2. National and international competitive tendering is conducted using the Standard Tendering Documents STDs issued by the Public Procurement Regulatory Authority (PPRA) and required for use by Procuring Entities (PEs). This Guideline is based on the ITT, as well as on the Tender Data Sheet (TDS), which follows the ITT and provides contract-specific information.
3. PEs should note that evaluation and the resulting report need not necessarily be lengthy. The forms provided should invariably accompany the evaluation report, but they may be adapted to suit specific requirements of the Contract. The report should include a number of attachments to explain details of tender evaluation or to show specific controversial wording or numbers in the tenders. Cross-referencing should be used extensively, as well as references to pertinent clauses in the tendering documents.
4. Special attention should be made of contracts that group together ("package") smaller contracts ("lots" -also called "slices" or "items"), which may be awarded as a package to one tenderer, or as sub-packages of one or more lots to several tenderer. In such instances the tender evaluation is to be done separately, including any allowances for National preference, for each lot, subject to any cross- discounting.
5. Procuring entities should study these evaluation forms and guidelines during project preparation, in order to properly assess the managerial and administrative conditions needed for tender evaluation. PPRA staffs are available to explain the procedures, including any modifications necessary for evaluation using tendering documents other than those STDs presently available. The PPRA encourages the employment of experienced consultants to help in the tender evaluations (see Regulation 127 of the Public Procurement (Regulations, 2013) - Government Notice No. 446).

Section 1: Standard Tender Evaluation Forms

- a) Standard cover
- b) Letter of transmittal
- c) Identification
- d) Tendering process
- e) Tender submission and opening
- f) Tender prices (as read out)
- g) Preliminary examination
- h) Corrections and, Unconditional Discounts
- i) Exchange rates
- j) Currency conversion (Multiple currencies)
- k) Currency conversion (single currency)
- l) Additions, Adjustments and Priced Deviations
- m) National Preference
- n) Proposed Contract Award

Standard Cover

**Tender Evaluation Report
and
Recommendation for Award of Contract**

Name of Project: *[insert name of project]*

Contract Name: *[insert contract name]*

Identification Number: *[insert Tender Identification number]*

Date of Submission: *[insert date and time of submission]*

Letter of Transmittal

[Insert letter of transmittal]

[Note: this evaluation report and recommendation for award of Contract should be attached with Letter of Transmittal from the evaluation committee to the Procurement Management Unit. The letter should highlight conclusions and recommend any additional information that would help to expedite review by PMU and by the appropriate Tender Board. In addition, any unresolved or potentially contentious issues should be highlighted. The evaluation report (in the required number of copies) together with the letter should be sent to the PMU

Further, the evaluation report and the recommendation for award of Contract shall be forwarded to the appropriate Tender Board for approval before the Procuring Entity (PE) seeks external clearance if required or awards the Contract to the recommended Supplier. All originals of the tenders submitted must be readily accessible to the Tender Board.]

Table 1: Identification

1.1 Closing date (a) original (b) revised	_____ _____
1.2 Name of project	_____
1.3 Purchaser (a) name (b) address	_____ _____
1.4 Contract number (identification)	_____
1.5 Contract description	_____
1.6 Cost estimate ¹	_____
1.7 Method of procurement (check one)	ICB _____ NCB _____ Other _____
1.8 National preference allowed	Yes _____ No _____
1.9 Fixed price contract	Yes _____ No _____
1.10 Co-financing, if any: (a) agency name (b) percent financed by agency	_____ _____

¹ Cite source and date.

Table 3: Tender Submission and Opening

3.1 Tender submission deadline (a) original date, time (b) extensions, if any	<hr/> <hr/>
3.2 Tender opening date, time	<hr/>
3.3 Record of tender opening,	<hr/> <hr/>
3.4 Number of tenders submitted	<hr/>
3.5 Tender validity period (days or weeks) (a) originally specified (b) extensions, if any, date of Tender board's approval if required	<hr/> <hr/> <hr/>

Table 4: Tender Prices (as Read Out)

Name <i>(a)</i>	City/Town/ Region/ State/Province <i>(b)</i>	Country <i>(c)</i>	Currency(ies) ¹ <i>(d)</i>	Amount(s) or % <i>(e)</i>	Modifications or comments ² <i>(f)</i>	Tender Security (Currency and Amount) <i>(g)</i>
Etc.						

¹For single currency option (see Section IV, Para 16(d)), secondary currencies are expressed in column as a percentage of the total tender price.

² Describe any modifications to the read-out tender, such as discounts offered, withdrawals and alternative tenders. Note also the absence of any required tender security or other critical items. Refer also to Section IV, Para 12 herein.

**Table 5A: Preliminary Examination
(Commercial Responsiveness)**

Tenderer	Verification	Eligibility <i>[ITT Clause 3 and 4]</i>	Tender Security <i>[ITT Clause 18]</i>	Completeness of Tender <i>[ITT Clause 11, 12 and 13]</i>	Substantial commercial responsiveness¹ <i>[ITT Clause 32]</i>	Acceptance for detailed examination
<i>(a)</i>		<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>
Etc.						

***Note:** For explanations of headings, see Section IV, Para. 15 herein. Additional columns may be needed, such as for responsiveness to technical conditions. See example in Annex II*

¹ No major commercial deviations

**Table 5B: Preliminary Examination
(Technical Responsiveness)**

Tenderer	Technical Specification 1 <i>[Indicate¹ provision in tendering document]</i>	Technical Specification 2 <i>[Indicate provision in tendering document]</i>	Technical Specifications 3 <i>[Indicate provision in tendering document]</i>	Technical Specification 4 <i>[Indication provision in tendering document]</i>	Substantial² Technical Responsiveness	Acceptance for detailed examination
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
Etc.						

Note: For explanations of headings, see Section IV, para. 15 herein, Additional columns may be needed, such example in annex II.

¹ List here all the conditions provided in the tendering documents which tenderers must comply with for their bids to be considered commercially responsive.

² No major technical deviation

Table 6: Corrections and Unconditional Discounts

Tenderer	Read-out tender price(s)		Corrections		Corrected tender price(s)	Unconditional discounts ²		Corrected/discounted tender price(s)
	Currency(ies)	Amount(s)	Computational errors ¹	Provisional sums		Percent	Amount(s)	
(a)	(b)	(c)	(d)	(e)	$(f)=(c)+(d)-(e)$	(g)	(h)	$(i)=(f)-(h)$
etc								

Note: Only tenders accepted for detailed examination (Table 5, column g) should be included in this and subsequent tables. Column a, b, and c are from Table 4 (columns a, d, and e, respectively).

¹ Corrections in column d may be positive or negative.

² If the discount is offered as a percent, column h is normally the product of the amounts in columns f and g. Refer to paragraph 16 (c). If the discount is provided as an amount, it is entered directly in column. A price increase is a negative discount.

Table 7: Exchange Rates

Currency used for Tender Evaluation	Effective Date of Exchange Rate	Authority or Publication Specified for Exchange Rate
<i>[insert currency]</i>	<i>[insert date]</i>	<i>[insert name of authority]</i>

Note: *Attach copy of exchange rates provided by specified authority or publication.*

Table 8: Currency Conversion (Multiple Currencies)

Specify Evaluation Currency: _____

Tenderer (a)	Currency(ies) of tender (b)	Corrected / discounted tender price(s) (c)	Applicable exchange rate(s) ¹ (d)	Evaluation Currency	
				Tender price(s) (e) = (c) x (d)	Total tenderprice ² (f)
Etc.					

Note: Columns a, b and c are from Table 6, columns a, b and i.

¹ Column d is from Table 7.

² Column f is the sum of tender prices in column e for each tenderer.

Table 9: Currency Conversion (Single Currency)

Specify Evaluation Currency: _____

Tenderer <i>(a)</i>	Corrected/ discounted tender price (in specified currency) <i>(b)</i>	Payment composition			Exchange Rate used by Tenderer <i>(f)</i>	Amounts in currency of payment <i>(g)</i> <i>= (e)x(f)</i>	Exchange rate for Evaluation ¹ <i>(h)</i>	Evaluation currency	
		Currency of payment <i>(c)</i>	Percent of total tender <i>(d)</i>	Amount in evaluation currency <i>(e)=(b)x(d)</i>				Tender price <i>(i)=(g)x(h)</i>	Total ² <i>(j)</i>

¹ Column h is from Table 7

² Column j is the sum of tender prices in column i for each tenderer.

Table 10: Additions, Adjustments, and Price Deviations

Specify Evaluation Currency: _____

Tenderer <i>(a)</i>	Corrected discounted tender price ¹ <i>(b)</i>	Additions ² <i>(c)</i>	Adjustments ² <i>(d)</i>	Priced deviations ² <i>(e)</i>	Total price <i>(f) = (b) + (c) + (d) + (e)</i>
Etc.					

¹ Column b is from either Table 8, column for Table 9, column j

² Each insertion in columns c, d, or e should be footnoted and explained in adequate detail, accompanied by calculations. Refer to paragraphs 16(e), 16(f), and 16(g) respectively of Section IV

Table 11: National Preference

Specify Evaluation Currency: _____

Tenderer <i>(a)</i>	National preference group¹ <i>(b)</i>	Total price² <i>(c)</i>	Exclusions for preference³ <i>(d)</i>	Revised total <i>(e) = (c) - (d)</i>	Prevailing tariff (%)⁴ <i>(f)</i>	National preference (%)⁵ <i>(g)</i>	Preference price⁶ <i>(h)</i>	Total comparison price <i>(i)=(c)+(h)</i>
etc								

¹ Column b refers to Groups A, B, C, as indicated by tenderer, subject to verification by PE

² Column c is from Table 10, column f, if the lowest total price is from a Group A or Group B tenderer, it is the lowest evaluated tenderer, and the remainder of the table need not be filled out, Columns d through h need to be filled out only for Group C tenders.

³ Column d is the sum of costs in columns d and e from Table 10 plus other costs incurred within the United Republic of Tanzania. Footnotes should be provided to explain the significant components of column d.

⁴ Column f is the sum of duties and import taxes on the particular items or group of similar items as a percent of the CIF or CIP price. Refer to paragraph. 17(a) of Section VI

⁵ Column g will be the smaller of 15 percent or the prevailing tariff in column f.

⁶ Column h for Group A tenderers is zero. Group B tenders at this stage should no longer be compared. For Group C tenders, column h is the product of columns e and g.

Table 12: Proposed Contract Award

1.	Lowest evaluated responsive tenderer (proposed for contract award). (a) name (b) address	_____ _____	
2.	If tender submitted by agent, list actual supplier. (a) name (b) address	_____ _____	
3.	If tender from joint venture, list all partners, nationalities and estimated shares for contract.	_____	
4.	Principle country (ies) of origin of textbooks and reading materials	_____	
5.	Estimated date (month, year) of contract signing	_____	
6.	Estimated delivery to project site/ completion period.	_____	
		Currency(ies)	Amount(s) or %
7.	Tender price(s) (Read-out) ¹		
8.	Corrections for errors ²		
9.	Discounts ³		
10.	Other adjustments ⁴		
11.	Proposed award ⁵		

¹ From Table 6, columns *b* and *c*

² From Table 6, column *b*

³ From Table 6, column *h*. Include any cross-discounts. See Section IV, paragraph 17(b)

⁴ All adjustments should be explained in detail.

⁵ Sum of the prices in Items 7-10. For single currency tenders *s*, express secondary currency amounts as percentages.

Section II: Appointment of Evaluation Committee Members

1. **Committee**
 - 1.1 For each procurement of textbooks and reading materials, the accounting officer or chief executive officer concerned shall appoint the evaluation committee and negotiations committee to act in accordance with the Regulations.
 - 1.2 Every committee shall have an expert or a person qualified in the subject matter of textbooks and reading materials and if possible the particular type of textbooks and reading materials that are being procured.
 - 1.3 A summary of the qualifications and abridged curriculum vitae of each of the evaluation committee members should be made part of the evaluation report and where appropriate the records of the procurement process.
 - 1.4 The Evaluation committee shall submit their report to the respective Procurement Management Unit (PMU) on completion of their assignment to review if it is in accordance with the tender document issued to the prospective tenderers..
 - 1.6 Where PMU is satisfied with the report it shall forward the same to the tender board for approval; and where not satisfied it shall return the evaluation report with reasons to the evaluation team for re- evaluation
 - 1.7 Where PMU is satisfied with the evaluation report, PMU shall prepare and submit to the tender board a summary of the evaluation and observation, if any, using prescribed format by PPRA.
2. **Committee composition**
 - 2.1 The committees set up under paragraph 1 shall each be headed by a chairperson and consist of at least three (3) committee members. Each committee shall comprise of not less than two government officials with the necessary qualifications and experience, one official from other public authorities who is a specialist or qualified person with knowledge on the subject

of the textbooks and reading materials to be called for and one procurement specialist who shall not be involved in the approval process.

In the event that the chairperson is unable to perform the duties, the Accounting Officer or Chief Executive Officer shall appoint another person with the necessary qualifications to act as the chairperson.

2.2 In the absence of the chairperson at any meeting, the other members present shall appoint one of them to act as chairperson. The acting chairperson shall report their deliberations or finding to the committee chairperson appointed by the Accounting Officer for further action.

3. **Quorum**
 - 3.1 The quorum for tender evaluation committee set up under paragraph 1 above shall be the total number of the members (including the chairperson).
4. **Duties of the tender evaluation committee**
 - 4.1 The duties of the tender evaluation committee shall be:-
 - a) To establish and agree on the detailed evaluation criteria,
 - b) Study, analyse, evaluate, compare and rank all tenders,
 - c) Prepare and submit the number of copies of the report required by the PMU.
5. **Disclosure of the names of the tenderer to the committee**
 - 5.1 After the committees have been formed in accordance with paragraph 2 of these Guidelines, the names of the tenderers who have submitted the tenders shall be disclosed to the members at the appropriate time.
 - 5.2 The committee members shall be given sufficient time to go through the list of the tenderers and each one of them will decide whether or not his/her participation in the process will have conflict of interest.
6. **Disability of member of the**

If a member of a committee appointed in accordance with paragraph 2 has any pecuniary

**committee on
account of interest in
contracts**

interest, direct or indirect in any of the tenderers/firms or in the contract, in contracts proposed contract or other matter, shall as soon as practicable, disclose the fact and shall not take part in the tenders, evaluation, consideration or discussion on and question with respect to it.

- 6.2 A committee member shall disclose his/her interest in accordance with Section 40(6) and Regulation 80 of PPA 2011 and the Public Procurement Regulations, Government Notice No. 446 of 2013.
- 6.3 In accordance with Regulation 82(2) of Public Procurement Regulations, Government Notice No. 446 of 2013, the Accounting Officer shall cause to be recorded in a book or other document to be kept for the purposes, particulars of any disclosure made under Regulation 80 of the Public Procurement Regulations, Government Notice No. 446 of 2013. The committee members shall also sign a declaration form.

Section III: Evaluation of Tenders

7. Purpose

- 7.1 The objective of competitive tendering is to acquire the textbooks and reading materials at the most economic cost to the PE. Price is only one component of the real cost of a tender to the PE.

Other factors that can constitute significant elements of the cost to the PE include:-

- a) Technical aspects of the offer;
 - b) Time of delivery; and
 - c) Commercial terms of the offer.
- 7.2 The purpose or aim of tender evaluation is to determine the "cost" of each tender to the PE in a manner that will permit meaningful comparison among responsive and responsible tenders, on the basis of "evaluated" cost; thereby allowing the determination, of the "lowest evaluated tender". The lowest evaluated tender may or

may not necessarily be the lowest priced tender.

8. **Disclosure of criteria**
 - 8.1 In order to elicit responsive tenders and to ensure fairness to all tenderers, the evaluation of tenders must be consistent with the terms and conditions set forth in the tendering documents. Thus the evaluation criteria should be spelt out in the tender documents, as precisely as possible.
 - 8.2 Use of criteria other than those specified in the tendering documents is strictly prohibited.
9. **Evaluation Committee**
 - 9.1 Tender evaluation is a joint technical and commercial exercise. Therefore, it is essential for the PE to constitute a tender evaluation committee as stated under paragraph 1 and paragraph 2 above comprising technical, economic and financial experts to carry out the analysis.
10. **Evaluation procedure**

In determining the lowest evaluated tender accurately, efficiently and in a transparent manner, it is essential to follow a systematic procedure designed to cover all aspects of the evaluation process in a logical sequence. The logical steps to be followed in tender evaluation may be summarized as follows:-

 - Step 1: Basic Data**
 - 10.1 Before commencing the actual evaluation it is useful to complete a Basic Data Sheet for each tender so that all the key information on each tender is readily available and the evaluation process is kept in proper perspective.
 - Step 2: Record of tender opening**
 - 10.2 An official record of tender opening, identifying all the tenders received, the tender prices, alternative tenders, and tender bond amounts announced at the public opening of tenders or bid securing declaration should be formally prepared.
 - Step 3: Preliminary Examination of Tenders**
 - 10.3 The next step is the examination of all tenders received, for substantive technical and commercial responsiveness, in accordance with the invitation to tender. This exercise aims at eliminating tenders which are not responsive to technical specifications and important

commercial requirements, to the extent that they are entirely unacceptable and merit no further consideration.

a) Material deviations to commercial terms and conditions, which justify rejection of a tender shall include the following:

- i. failure to sign the form of tender form and price schedules by the authorized person or persons;
- ii. failure to satisfy eligibility requirements;
- iii. failure to submit a tender security or bid securing declaration as specified in the tendering documents;
- iv. failure to satisfy the tender validity period;
- v. inability to meet the critical delivery schedule or work schedule clearly specified in the tendering documents, where such schedule is a crucial condition with which tenderers must comply;
- vi. failure to comply with minimum experience criteria as specified in the tendering documents;
- vii. conditional tenders such as conditions in a tender which limit the tenderer's responsibility to accept an award;
- viii. inability to accept the price adjustment formulae of the tendering documents;
- ix. stipulating price adjustment when fixed price tenders were invited;
- x. subcontracting in a substantially different amount or manner than that permitted;
- xi. failure to submit major supporting documents required by the tendering documents to determine substantial responsiveness of a tender.

b) Material deviations to technical terms and conditions, which justify rejection of a tender shall include the following:-

- i. failure to tender for the required scope of work as instructed in the tendering

- documents and where failure to do so has been indicated as unacceptable;
- ii. failure to quote for a major item in the package;
 - iii. failure to meet major technical requirements, such as offering completely different types of equipment or materials from the types specified, plant capacity well below the minimum specified, equipment not able to perform the basic functions for which it is intended;
 - iv. presentation of absolutely unrealistic and inadequate implementation plans and schedules regarding performance, technical or service factors.

c) Tenders meeting these conditions are declared to be substantially responsive.

d) Non-responsive tenders

Examples of non - conformance justifying rejection of a tender are as follows:-

- i) failure to satisfy eligibility criteria.
 - ii) failure to satisfy experience criteria.
 - iii) failure to submit tender security or tender securing declaration, where one has been requested.
 - iv) failure to meet major technical specifications.
 - v) inability to meet critical delivery criteria; and conditional tenders.
- e) Tenders which fail to conform to any of the major conditions are normally declared substantially non - responsive. They are rejected and not considered any further in the evaluation.

f) Rejection of all tenders if:-

- i) All tenders are non-responsive.
- ii) Evidence of lack of competition.
- iii) Evidence of collusion among tenderers.
- iv) the economic or technical data of the

- project have been altered.
- v) Tenders or proposals involve costs substantially higher than the original budget or estimate

Detailed Evaluation

Step 4: Correction of arithmetical errors 10.4 All substantially responsive tenders must firstly be examined for arithmetic errors. All calculations should be checked on the basis of schedule of prices. Any difference between the unit prices and the total must be corrected. The unit prices must rule.

Step 5: Currency of tender comparison 10.5 Since tenders would have been received from different countries, involving different currencies, it is essential to convert all tender prices to one currency as specified in the tendering documents for assessment purposes:-

- a) Common currency is Tanzania shillings, or other currency widely used 'or international trade,
- b) Rate of exchange:
 - (i) Selling rates published by the Bank of Tanzania and applicable to similar transactions; or
 - (ii) Date stipulated in the tendering document but not earlier than 15 days prior to date of tender opening.

Step 6: Comparison of tenders 10.6 After the examination of substantive commercial and technical responsiveness, the tenders determined to be substantially responsive must be evaluated in detail and compared, in order to select the tender which is most advantageous to the purchaser.

Detailed evaluation involves scrutinizing the selected tenders systematically and critically to establish comparison on common basis:-

- a) List all the important commercial conditions of tender, validity period, delivery date; terms of payment, liquidated damages, etc.

- b) Set out the scope of supply and list all the important requirements that the textbooks and reading materials must possess.
- c) Scrutinize rigorously and compare tenders on this basis.

Step 7: Financial adjustment of tender prices

10.7 Governing principle of tender comparison is that base tender price of all tenders should be compared, excluding extraneous cost elements, such as escalation. The basis of comparison should be:-

- a) The foreign tender: the offered price shall be the CIF price excluding import duties, consular duties and port taxes, to which will be added port handling charges and any local transport from the port or frontier to the project site.
- b) The domestic tender: the offered price shall be the delivered price at the project site, with deduction for local sales, consumption and value added taxes incorporated in the cost of the items.
- c) Tenders are usually evaluated on one of the following basis:-
 - i) supply of the textbooks and/or reading materials only;
 - ii) supply of the textbooks and/or reading materials including transportation to project site; and
 - iii) Performance of other incidental services stipulated in the tender documents.

Step 8: Evaluation with Margin of Preference

10.8 (1) Where a PE has allowed a margin of preference in accordance with Regulation 33 of the Public Procurement Regulations, Government Notice No. 446 of 2013, the procedure set out below shall be followed in the evaluation and comparison of tenders.

(2) For the purposes of comparison in case

where a margin of preference for textbooks and reading materials printed and/or published in the United Republic of Tanzania, responsive tenders shall be classified in one of the following three groups;

(a) Group A:

Tenders offering textbooks and reading material printed and/or published within the United Republic of Tanzania, provided that the tenderer establishes to the satisfaction of the PE that:

- (i) labour, raw materials and components originating from within the United Republic of Tanzania will account for more than 30 per cent of the ex-works price of the textbooks and reading materials offered, and
- (ii) the production facility in which those textbooks and reading materials will be printed and/or published has been engaged in printing and/or publishing of such textbooks and reading materials at least since the time of submission of the tender.

(b) Group B:

All other tenders offering textbooks and reading materials outside United Republic of Tanzania, already imported.

(c) Group C:

Tenders offering textbooks and reading materials from outside the United Republic of Tanzania, to be imported.

- (3) The ex-works price quoted by Group A and Group B tenderers shall include all duties and taxes paid or payable on the raw or basic materials or components that have been purchased in the National market or imported, but shall exclude any sales and similar taxes on the finished product.

- (4) The price quoted in Group C tenders shall be on CIF or CIP port of entry, border point or other destination, exclusive of customs duties and other import taxes
- (5) The PE shall first evaluate and compare all responsive tenders so as to determine the lowest evaluated tender within each group.
- (6) The lowest evaluated tenders in each group shall then be compared with each other. If, as a result of this comparison, a tender from Group A or Group B is the lowest, it shall be selected for the contract award.
- (7) If as a result of the comparison made under item (5) above, the overall lowest evaluated tender is from Group C, all Group C tenders shall be further compared with the lowest evaluated tender from Group A.
- (8) For the purposes of this comparison only, an amount equal to:
 - (i) the amount of the duties and other related import charges which a non-exempt importer would have to pay for the importation of the textbooks and reading materials offered in such Group C tender, or
 - (ii) fifteen per cent of the CIF or CIP tender price of such textbooks and reading materials if the said duties and charges exceed fifteen per cent of such price shall be added to the evaluated tender price of the imported textbooks and reading materials offered in each Group C tender.
- (9) If the Group A tender in such further comparison is the lowest, it shall be selected for the contract award; if not, the lowest evaluated tender from Group C, as determined from the comparison made under item (7) above shall be selected.
- (10) The price for textbooks and reading

materials offered from abroad shall be quoted CIF or CIP, and the price for textbooks and reading materials offered from within the United Republic of Tanzania shall be quoted ex-works, free of sales and similar taxes. All other components, such as design, printing, publishing, and supervision, shall be quoted separately.

(11) In the comparison of tenders, only the CIF or CIP price for textbooks and reading materials offered from outside the United Republic of Tanzania shall be increased, for the purposes of comparison only by:

- (a) the applicable duty and other taxes payable by a non-exempt importer, or
- (b) Fifteen per cent whichever is less.

(12) If duties vary from item to item within a package, the appropriate tariff for each textbook and/or reading material shall apply but no preference shall be applied for any associated services included in the package.

Step 9: Lowest evaluated tender

10.9 The tenderer with the lowest total is the lowest evaluated cost tenderer at this stage subject to:-

- a) Application of any discounts, contingent on the simultaneous award of multiple contracts or lots; and
- b) Post-qualification evaluation, or if pre-qualification has occurred confirmation of pre-qualification information.

Step 10: Post-qualification

1. If prequalification was not undertaken, post-qualification shall be performed to determine whether the lowest evaluated tender has the legal capacity, capability and resources to carry out the contract.

2. The criteria for post-qualification shall be set out in the solicitation documents and shall include;

- (a) experience and past performance on similar contracts;
- (b) knowledge of local working conditions;
- (c) capabilities with respect to personnel;
- (d) equipment and construction or manufacturing facilities where applicable;
- (e) financial capability to perform the contract;
- (f) current commitments;
- (g) legal capacity to make binding decisions on its rights, duties and obligations;
- (h) compliance with health and safety laws, tax and employment laws where applicable;
- (i) litigation record; or
- (j) any other relevant criteria as stipulated in the tendering documents.

3. Where the tender price of the lowest evaluate tenderer is considered to be abnormally low, the Procuring Entity shall perform price analysis as part of the post-qualification. The following process shall apply:

- (a) The Procuring Entity may reject a tender if the Procuring Entity has determined that the price in combination with other constituent elements of the tender is abnormally low in relation to the subject matter of the procurement (scope of works or services) and raise concerns with the Procuring Entity as to the ability of the tenderer that presented that tender to perform the contract.
- (b) Before rejecting an abnormally low tender the procuring entity shall: request the tenderer an explanation of the tender or of those parts which it considers contribute to the tender being abnormally low; take account of the evidence provided in response to a

request in writing or in electronic forms that provide record of the content of communication ; and subsequently verify the tender or parts of the tender being abnormal

- (c) The decision of the Procuring Entity to reject a tender and reasons for the decision shall be recorded in the procurement proceedings and promptly communicated to the tenderer concerned;
 - (d) The Procuring Entity shall seek the approval of the Authority prior to rejecting a tender;
 - (e) Neither the Authority nor the Procuring Entity shall incur liability solely by rejecting abnormally tender; and
 - (f) An abnormally low tender means, in the light of the Procuring Entity's estimate and of all the tenders submitted, the tender appears to be abnormally low by not providing a margin for normal levels of profit
4. A procuring entity may seek independent references of a tenderer and the results of reference checks may be used in determining award of contract.
 5. In case of a foreign company, a procuring entity shall seek independent reference of legal existence of a tenderer from Tanzania diplomatic missions abroad or from any other reliable source.
 6. An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the tenderer's tender, in which event the procuring entity will proceed to the next lowest evaluated tender to make a similar

determination of that tenderer's capabilities to perform satisfactorily.

7. Where a tenderer has been pre-qualified, a full post-qualification may not be necessary, but the pre-qualification information submitted shall be verified and an award may be denied to the lowest evaluated tenderer if he is judged to no longer meet the pre-qualification requirements and criteria, the procuring entity shall consider:
 - a) any material change in circumstances since submission of the pre-qualification information; and
 - b) any information which has become available since the pre-qualification submission, which, in the procuring entity's judgement, materially affects the capacity of the tenderer to perform the contract.
8. A procuring entity may seek to limit the number or total value of awards made to any tenderer in cases where the tenderer's resources are known to be, or are likely to be insufficient for the additional commitments that would result from the proposed contract.

Section IV: Detailed Evaluation Guidelines

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|--|---|
| 11 Identification, Tendering process, and Tender submission | 11.1 Tables 1, 2, and 3 provide for the filing of basic information on the procurement process. This information is necessary to monitor compliance with the regulations, and particularly Regulations 181 and 182 the Public Procurement Regulations, Government Notice No. 446 of 2013 on advertising and contents of invitation to tender. |
| 12 Tender opening¹¹ | 12.1 All tenderers or their representatives are invited to attend the tender opening, where tenders are read out and recorded, along with a list of |

¹¹ See Public Procurement Act No. 9 of 2011 and the Public Procurement of Regulations, Government Notice No. 446 of 2013; Regulation 195.

attendees. Copies should be sent to all tenderers. Tender opening procedures are described in the Instructions to Tenderers. To assist in carrying out the opening and preparation of the record, a checklist is provided in Annex 1. The checklist should preferably be filled out for each tender during the actual reading out at the meeting. The reading should be from the original version of each tender, and the actual amounts and other key details read out should be circled for later verification. If tenders are expressed in a single currency, other currency needs expressed as a percentage should be recorded. It may also be desirable to read out exchange rates used by tenderers (see paragraph 16 (d) of this Section).

12.2 Any envelopes containing substitutions, modifications, or withdrawals must be subject to the same level of scrutiny, including the reading out of critical details, such as price changes. Failure to read out such information and include it in the written record may result in denial of its inclusion in tender evaluation. If a tender has been withdrawn by email, it should nonetheless be read out and should not be returned to the tenderer until the authenticity of the withdrawal notice has been confirmed.

12.3 As stated in the Instructions to Tenderers, no tenders should be rejected at the tender opening except those received after the deadline for receipt of tenders. Such tenders shall be returned unopened to the tenderer. A summary of the read-out tender prices should be provided in Table 4.

13. **Tender validity**

13.1 The duration of the validity of each tender should be the one specified in the ITB and should, be confirmed in the signed (form of) tender. If exceptional circumstances occur in which award cannot be made within the validity period, extensions in writing should be requested of tenderers, in accordance with the ITT, PPA 2011 and the Public Procurement of Regulations, Government Notice No. 446 of 2013, Regulation 191. Extensions to the validity of tender security should also be requested of tenderers, if

necessary.¹² Note any extensions in Table 3.

14 Principles of Evaluation

14.1 After the public opening of tenders, information relating to the examination, clarification, and evaluation of tenders shall not be disclosed to tenderers or other persons not officially concerned with this process; PPA and Regulation 233 of the Public Procurement Regulations, Government Notice No. 446 of 2013.

14.2 On occasion, the PE may request clarifications of tenderers concerning ambiguities or inconsistencies in the tender. As required in the ITB, such requests shall be in writing, and no change in the price or scope of the originally offered textbooks and reading materials, shall be sought or accepted, except for the correction of arithmetic errors. The responses from tenderers shall also be in writing or in electronic forms that provide record of the content of. No circumstances shall justify meetings or conversations between the PE (and its consultants) and tenderers during the tender evaluation process.

14.3 Tenderers frequently attempt to contact the PE during tender evaluation, directly or indirectly, to query progress of evaluation, to offer unsolicited clarifications, or to provide criticisms of their competitors. Receipt of such information should be acknowledged as to receipt only¹³ PEs must evaluate tenders on the basis of the information provided in the respective tenders. However, additional information provided may be useful in improving the accuracy, speed, or fairness of the evaluation. Nonetheless, no changes in the tender price or substance are allowed.

15. Preliminary Examination of Tenders

15.1 The evaluation process should begin immediately after, tender opening. The purpose of preliminary examination is to identify and reject tenders that are incomplete, invalid, or substantially non-responsive to the tendering documents and therefore, are not to be considered further. The

¹² Particular care must be taken in cases where the deadline for *submission* (or for opening) of tenders can be extended, as the duration of tender security is frequently provided in terms of an expiration date. In contrast, tender validity is specified in terms of an interval after the deadline for receipt or the date of tender opening.

¹³ On occasion, tenderers approach the Tender Boards with information

following checks should be applied:

- (a) Verification: Attention should be directed towards deficiencies that, if accepted, would provide unfair advantages to the tenderer. Sound judgment must be used: for example, simple omissions or mistakes arguably occasioned by human error should not be grounds for rejection of the tender. Rarely is a tender perfect in all respects. However, the validity of the tender itself, for example, its signatures, must not be in question. If the tenderer is a joint venture, the joint venture agreement must be submitted; if the tenderer is an agent, an authorization from the supplier or manufacturer must be provided in addition to any documentation required of the supplier or manufacturer itself. All copies of the tender should be compared with the original and corrected accordingly, if necessary. Thereafter, the original should be kept in a safe location, and only copies should be used in evaluation.

- (b) Eligibility: The tenderer must be a national or a legal entity from an eligible source country. All partners to a joint venture shall be from an eligible source country, and the joint venture shall be registered in an eligible source country. All textbooks and reading materials shall originate from eligible source countries. If pre-qualification has taken place, only tenders from pre-qualified tenderers can be considered¹⁴. The tenderer (including all members of a joint venture and subcontractors) may be disqualified if affiliated with a firm that has provided related consulting services on the project, or if the tenderer is a publicly owned enterprise from the United Republic of Tanzania, lacking legal and financial autonomy. (See the ITB for details)

- (c) Tender security: The tendering document may require submission of a tender security. If so, the tender security must

¹⁴ The legal status of the pre-qualified tenderers may not be modified in the submission of bids.

conform to the requirements of the ITB, and it must accompany the tender. If the tender security is issued as a bank guarantee, it must be consistent with the wording of the tender security form provided in the tendering documents. Submission of a copy of the security or submission of a counter guarantee naming PE's bank instead of the PE is unacceptable. Furthermore, securities for an amount smaller or for a period shorter than the one specified in the ITB are not acceptable. The security for a tender submitted by a joint venture should be in the names of all of the partners of the joint venture.

- (d) Tender Securing Declaration: The Tender Securing Declaration where required shall be submitted in accordance with the ITB. Tender Securing Declaration for joint ventures shall be in the names of all partners of the joint venture.
- (e) Completeness of Tender: Unless the tendering documents have specifically allowed partial tenders - permitting tenderers to quote for only select items or for only partial quantities of a particular item - tenders not offering all of the required items or tenders inserting new items not specified or not required by the tendering documents should ordinarily be considered non-responsive. If any erasures, interlineations, additions, or other changes have been made, they should be initialled by the authorized representative of the tenderer. They may be acceptable if they are corrective, editorial, or explanatory. If they are not, they should be treated as deviations and should be analysed as per paragraph 16 (f) below. Missing pages in the original copy of the tender may be cause for rejection of the tender, as may contradictions in model numbers or other designations of critical supply items.
- (f) Substantial responsiveness: Major deviations to the commercial requirements

and technical specifications are a basis for the rejection of tenders. As a general rule, major deviations are those that, if accepted, would not fulfil the purposes for which the tender is requested, or would prevent a fair comparison with tenders that are properly compliant with the tendering documents. Examples of major deviations include:

- (i) Stipulating price adjustment when fixed price tenders were called for;
- (ii) Failing to respond to specifications by offering instead textbooks and/or reading materials that do not offer substantial equivalence in other requirements;
- (iii) Phasing of contract delivery, not conforming to required critical dates or progress markers;
- (iv) Subcontracting in a substantially different amount or manner than that permitted;
- (v) Refusing to bear important responsibilities and liabilities allocated in the tendering documents, such as performance guarantees and insurance coverage;
- (vi) Taking exception to critical provisions such as applicable law, taxes and duties, and dispute resolution procedures;
- (vii) Those deviations that are specified in the ITB as requiring rejection of the tender

Tenders that offer deviations may be considered substantially responsive-at least as to the issue of fairness - if the deviations can be assigned a monetary value that would be added as a penalty during the detailed evaluation process and if such deviations would be acceptable in the eventual contract.

15.2 The results of preliminary examination should be presented in Table 5. If the tender fails preliminary acceptance, the reasons must be clearly explained in footnotes or in an attachment, as necessary. An example is shown in Annex II.

PEs may find it useful to include additional tables for itemization of responsiveness to a list of technical or commercial specifications. These should be attached to Table 5.

16. Detailed Examination of Tender

16.1 Only those tenders surviving preliminary examination need to be examined in this phase.

- (a) Corrections for errors: The methodology for correction of computational errors is described in the ITB. The read-out tender prices and their corrections should be noted in Table 6, column d. Tenderers should be informed about the arithmetic corrections carried out in their tenders and should be requested to confirm whether or not they accept such corrections. If the tenderer does not accept the corrected tender sum, its tender will be rejected and other appropriate actions may be taken by the PE in accordance with the ITB. The corrections are considered binding on the tenderer. Unusual or large corrections that could affect the comparative ranking of tenders should be explained in footnotes.
- (b) Corrections for provisional sums: Tenders may contain provisional sums set by the PE for contingencies or for nominated subcontractors, etc. As these sums are the same for all tenders, they should be subtracted from the read-out prices in Table 6, column e to allow for a proper comparison of tenders in subsequent steps.
- (c) Modifications and discounts: In accordance with the Instructions to Tenderers, tenderers are allowed to submit, prior to tender opening, modifications to their original tender. The impact of modifications should be fully reflected in the examination and evaluation of the tenders. These modifications may include either increases or discounts to the tender amounts that reflect last-minute business decisions. Accordingly, the original tender prices should be modified at this point in the evaluation. Discounts offered in accordance

with the ITB that are conditional on the simultaneous award of other contracts or lots of the contract package (cross-discounts) shall not be incorporated until the completion of all other evaluation steps. The effect of unconditional discounts (or alternatively, increases) should be shown as in Table 6 (columns g *and* h). Any discount expressed in percent must be applied to the appropriate base specified in the tender (i.e., check to see if it applies to any provisional sums).

- (d) Evaluation currency: The remaining tenders as corrected for computational errors and as adjusted for discounts should be converted to a common evaluation currency, as described in the ITB. The exchange rates to be used in the calculations are to be listed in Table 7. If multiple exchange rates exist for a particular currency (for commercial, Government transactions, etc.), indicate which applies, with reasons for the choice. Where exchange rates for a particular currency are not available from the specified authority or publication, identify the secondary source, as well as any necessary conversion calculations.
- (e) Additions: Omissions to the tender should be compensated for by adding the estimated costs for remedying the deficiency. Where items missing in some tenders are present in others, an average or the highest of quoted prices could be used to compare competitors' tenders. Alternatively, external sources, such as published price lists, freight tariff schedules, etc., may be appropriate. The cost determined should be expressed in the evaluation currency and shown in Table 10, column c.
- (f) Adjustments: The ITB specifies which, if any, performance or service factors will be taken into account in the tender evaluation. The methodology used in evaluation of these factors should be precisely described

in the tender evaluation report and should be fully consistent with the ITB provisions. Bonuses or additional credits that reduce the evaluated tender price will not be given in the tender evaluation for features that exceed the requirements stated in the tendering documents, unless specifically provided for in the ITB¹⁵. The value of adjustments will be expressed in terms of cost.

- (g) Priced deviations: As discussed under paragraph 15(f), tenders with minor deviations may be considered substantially responsive if their further consideration assigns a monetary cost or penalty to the tender for the purpose of tender comparison:
- i) Requests for deviations that are expressed by the tenderer in vague terms, such as "we would like an increase in the amount of mobilization advance" or "we wish to discuss changes in the completion schedule" should ordinarily be ignored in tender evaluation. However, a categorical statement by the tenderers taking exception to a requirement in the tendering documents should be treated as a deviation.
 - ii) If a tenderer requires a faster payment stream than specified in the tendering documents, the penalty is based on the prospective benefit to the tenderer. This situation assumes use of a discounted cash flow using the prevailing commercial interest rates for the currencies of the tender, unless the ITB foresees the eventuality and specifies a rate.
 - iii) If a tender provides for a delivery or completion period that is beyond the date specified in the tendering

¹⁵ Similarly, a tender offering a choice of textbooks from different publishers and possibly different editions is evaluated on the basis of the lowest price offered by the tenderer from among the publishers or editions meeting the requirements of the tendering document.

documents but that is nonetheless technically acceptable to the PE, the time advantage given should be assessed and a penalty specified in the ITB or, if one is not provided, based on the rate of liquidated damages specified in the tendering documents.

The deviations should be priced in the evaluation currency in Table 10, column e.

17 Determination of award

17.1 In the comparison of tenders, the corrected and discounted tender prices, together with adjustments for omissions, deviations, and specified evaluation factors, shall be noted in Table 10. The tenderer with the lowest total is the lowest evaluated cost tenderer at this stage, subject to:

- 1) Application of National preference, if any is allowed;
- 2) Application of any discounts, contingent on the simultaneous award of multiple contracts or lots; and
- 3) Post-qualification evaluation, or, if pre-qualification has occurred, confirmation of pre-qualification information.

(a) National preference:

If National preference is allowed in tender evaluation, the ITB will so state and provide detailed procedures to be used in determining the eligibility for preference and the amounts.

Verification of the prevailing import duties and the related import taxes to a non-exempt importer must be made. If these duties and taxes are less than 15 percent of the CIF or CIP price,¹⁶ they are to be used as to the amount of preference. Also, the eligibility of textbooks and reading materials for National preference must be examined according to the criteria

¹⁶ CIF is cost, insurance and freight for maritime transportation. CIP is cost, carriage and insurance in the case of multi-modal transportation. For further definitions, refer to the most recent edition of *INCOTERMS*, International Chamber of Commerce.,

described in the Instructions to Tenderers.

The calculations for determining the lowest evaluated tenderer are based on a two-step process. In the second step, if needed, the National preference is *added* (like a tariff) to the CIF or CIP tender prices of the textbooks and reading materials offered from abroad.¹⁷ Care should be taken to separate these prices from the overall tender prices, which may include the costs of internal transportation and related freight insurance, training, and other costs incurred within the United Republic of Tanzania. Such costs are not to be adjusted for the preference. The CIF or CIP tender prices used will reflect corrections for errors and discounts and will be adjusted for omissions pertaining to the CIF or CIP prices. They will *not* reflect adjustments for deviations or specified evaluation factors. The preference tariff calculated will then be added to the corrected, discounted, and adjusted total prices tabulated in Table 11.

All calculations involved in assessing National preference should be clearly shown in Table 11, together with accompanying explanations as necessary. The lowest evaluated tenderer would be the tenderer with the lowest price total in column i, unless note 2 of Table 11 applies.

- (b) Cross-Discounts: These are conditional discounts offered in the event that more than one contract or lot will be awarded to the same tenderer. Tender evaluation in such cases can be quite complicated, particularly for textbooks and reading materials contracts where National preference may apply. The sizes of cross-discounts offered by each tenderer may vary with the potential number of contracts awarded. The Instructions to Tenderers may also limit the number or total value of awards to a tenderer on the basis of its

¹⁷ This occurs if the apparent low tenderer from the first step is importing the textbooks and reading materials.

financial and technical capacity¹⁸. Thus, a tenderer offering the lowest evaluated tender on a particular contract may be denied award because of such a restriction. The PE shall select the optimum combination of awards on the basis of least overall cost of the total contract package, consistent with the qualification criteria. Presentations of the calculations should be made on an attachment to the report, which should include the tender evaluation(s) for the other contracts, if they have been evaluated separately.

- (c) Qualification: If pre-qualification was conducted, the tenderer whose tender is the lowest evaluated should receive the award, unless the tenderer's qualifications have since materially deteriorated or the tenderer has since received additional work that over stresses its capacity. The PE should satisfy itself fully on both accounts.

Where pre-qualification has not occurred, the prospective award should be subjected to post-qualification, the procedures for which are described in the ITB.

If the lowest evaluated tenderer fails post-qualification, its tender should be rejected, and the next ranked tenderer should then be subject to post-qualification examination. If successful, this tenderer should receive the award. If not, the process continues.

The rejection of a tender for reasons of qualification requires substantial justification, which should be clearly documented in attachments to the report. A history of poor performance may be considered a substantial justification.

- (d) Alternative Tenders: ITB may request or allow the PE to accept alternative tenders under the stipulation that only the alternative submitted by the lowest

¹⁸ This restriction may originate with pre-qualification.

evaluated tenderer and conforming to the tendering documents will be considered.

The ITB may allow for submission of an alternative payment schedule. The same Instructions to Tenderers may also require Tenderers to submit, in addition to any CIF or CIP tenders, similar tenders less transport or insurance, such as FCA or CFR. The PE, if it is willing to accept the alternative tender offered by the lowest evaluated tenderer, should provide justification for doing so.

Calculations for the evaluation of alternatives should be provided in an attachment to the report.

- (e) Proposed award: The amount of the proposed award shall be the tender price as submitted by the winning tenderer and adjusted as described in the ITB for corrections, any discounts (including cross-discounts), and acceptance by the PE of alternative offers from the lowest evaluated tenderer. Table 12 should be filled out to establish the actual amount of the contract award.

If (a) none of the tenders are found to be responsive, (b) tenders are unreasonably high in price compared with earlier estimates, or (c) none of the tenderers are qualified, the PE may consider rejection of all tenders (prior Tender Board concurrence is required)

- (f) Report submission

- i) The evaluation committee must submit the completed tender evaluation report containing the required summary to PMU for reviewing prior to submitting to the appropriate tender board.
- ii) Where the evaluation and preparation of the report is not conducted in accordance with evaluation guidelines, PMU shall return the evaluation report to the evaluation committee for re-evaluation.

- iii) PEs are encouraged to request assistance as needed from the PPRA in explaining the evaluation procedures. However, the PPRA will not participate in the evaluation itself.
- (g) Review by the Tender Board: PMU may be requested to provide additional information and justification for the recommendations. The appropriate Tender Board will not contact tenderers. However, it may request the Accounting Officer to do so for necessary clarifications. When the appropriate Tender Board is satisfied with the evaluation of tenders and recommendations of award, the notification of award should be communicated by the Accounting Officer. Each member of that Tender Board shall sign an undertaking (Annex V) to declare whether or not that member has an pecuniary interest in any of the tenderers and an undertaking not to divulge confidential information to persons not concerned with the approval process of the tender under consideration.
- (h) Tender securities or bid securing declarations of unsuccessful tenderers should be returned or cease to have effect promptly after the contract has come into force. However, if contract effectiveness is contingent on the receipt of a performance security or other condition, the PE may consider seeking an appropriate extension of time for the tender validity and the accompanying tender security of the next two lowest tenderers.

Section V: Negotiations with Suppliers

- 18 Negotiations with tenderers**
 - 18.1 Negotiations may be undertaken with the lowest evaluated tenderer relating to the following areas in accordance with Regulation 225 of the Public Procurement Regulations, Government Notice No. 446 of 2013.
 - (a) a minor alteration to the technical details of

- the statement of requirements;
- (b) reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the solicitation documents;
- (c) a minor amendment to the special conditions of contract;
- (d) finalising payment arrangements;
- (e) mobilisation arrangements;
- (f) agreeing final delivery schedule to accommodate any changes required by the PE;
- (g) the methodology or staffing; or
- (h) clarifying details that were not apparent or could not be finalised at the time of tendering.

18.2 Negotiations shall not be conducted so as:

- (a) to substantially change the specification or details of the requirement, including responsibilities of the tenderer;
- (b) to materially alter the terms and conditions of contract stated in the solicitation document;
- (c) primarily for the purpose of reducing prices of the textbooks and reading materials,
- (d) to substantially alter anything which formed a crucial or deciding factor in the evaluation of tender.

18.3 Notwithstanding (1) and (2), above where a competitive procurement method was used, but only a single tender was received, negotiations may relate to other areas of the tender including the price offered.

18.4 Negotiations with a tenderer are not permitted until after the Tender Board has approved the evaluation committee's recommendation.

19. Membership and conduct of negotiations

In accordance with, Regulations 226, 227 and 228 of the Public Procurement Regulations, Government Notice No. 446 of 2013.:

- (a) The PMU shall recommend membership of a negotiation team based on appropriate seniority and experience depending on the value and complexity of the procurement requirement and the membership shall be approved by the appropriate Tender Board.
- (b) The number of members of the negotiation team shall depend on the value and complexity of the procurement requirement, but shall in all cases be a minimum of three, and may include members of the original evaluation committee or different officers.
- (c) The negotiation team shall include members with relevant mix of skills and experience, including:
 - i) knowledge of end-user requirements;
 - ii) negotiation skills;
 - iii) procurement and contracting skills;
 - iv) financial management skills; or
 - v) technical skills relevant to the procurement textbooks and reading materials.
- (d) Members of the negotiation team shall select a chairman from among their number who shall be responsible for:
 - i) ensuring all arrangements for negotiation meetings are made;
 - ii) chairing all negotiations;
 - iii) ensuring the negotiations are conducted in accordance with all legal requirements;
 - iv) ensuring all members are aware of their responsibilities, including the need for confidentiality;
 - v) ensuring all members have a common understanding of the process of negotiations and objectives to be achieved;

- vi) ensuring members understand their own role in the negotiations and the standard approach of the team;
 - vii) managing communications between the negotiation team and the tenderer or any other body;
 - viii) ensuring that the negotiation team has access to adequate resources; and
 - ix) preparing the final report on the negotiation or ensuring that it is prepared.
- (e) Where negotiations are commenced with the next ranked tenderer or a new tenderer is invited, the PE shall not reopen earlier negotiations; and the original tenderer shall be informed in writing of the reasons for termination of the negotiations.
- (f) The recommendations of the negotiation team shall be submitted to the tender board for appropriate action as per sub-regulation 228 (2) the Public Procurement Regulations, Government Notice No. 446 of 2013.

Section VI: Contract Award and Notification

- 20. Award of contract** 20.1 After award has been made, the procuring entity is required to publish a description of the contract, the name and nationality of the contract awardee, and the contract price. Any further information on the tenders or on their evaluation, including the tender evaluation report, is held in confidence by the procuring entity. Unsuccessful tenderers are allowed under the Regulations to seek a debriefing with the procuring entity. In anticipation of this and/or any audit or post reviews by the PPRA, the Public Procurement Appeals Authority or the Controller and Auditor General or other authorized institutions, the procuring entity should ensure that tendering documents and evaluations are securely stored.

Section VII: Handling Disagreements in the Tender Evaluation Process

- 21. Disagreements between the Accounting Officer or Chief Executive Officer and the Tender Board**
- 21.1 Where the Accounting Officer is not satisfied with the decision of the Tender Board regarding application or interpretation of any procurement method, process or practice, the matter shall be handled in accordance with Public Procurement of Regulations, Government Notice No. 446 of 2013, Regulation 51. In any case, the Accounting Officer or Chief Executive Officer shall not decide on behalf of the Tender Board.
- 22. Disagreements between the Tender Board and the Procurement Management Unit**
- 22.1 Likewise where a Tender Board disagrees with the recommendations of the PMU, the matter should be handled in accordance with Public Procurement Regulations, Government Notice No. 446 of 2013 Regulation 52. .
- 23. Disagreements between the Procurement Management Unit and the user department**
- Where a PMU disagrees with the user department concerning any decision pertaining to the application or interpretation of any procurement method, process or practice, the matter should be handled in accordance with the Public Procurement Regulations, Government Notice No. 446 of 2013 Regulation 53..
- 24. Disagreement between PMU and the evaluation committee**
- Where a PMU disagrees with the evaluation committee on the evaluation report, the matter should be handled in accordance with the Public Procurement Regulations, Government Notice No. 446 of 2013 Regulation 54.

Annex 1: Tender Opening Checklist

[To be filled out for each tender as it is read out]

RECORD OF TENDER OPENING

Name of the Procuring Entity: [insert name of Procuring Entity (PE)]

Tender ID No.: [Insert tender identification number]

Subject of Procurement: [insert subject of procurement]

Date of Opening: [insert date]

Time: [insert time]

Location: [insert location for the meeting]

PART 1: SUMMARY OF TENDER OPENING						
S/N	Name of Tenderer	Tender Price (currency)	Tender Validity Period	Tender Security and Amount (if applicable) or Tender Securing Declaration	Power of Attorney (if applicable)	M Au (i
1						
n th						

Certification of record of the tender opening meeting:

Chairperson	Tender Representative
Signature:	Signature:
Name:	Name:
Position:	Firm:
Date:	Date:

RECORD OF TENDER OPENING

Name of the Procuring Entity: *[insert name of Procuring Entity (PE)]*

Tender ID No.: *[Insert tender identification number]*

Subject of Procurement: *[insert subject of procurement]*

Date of Opening: *[insert date]*

Time: *[insert time]*

Location: *[insert location for the meeting]*

Firm: *[insert firm name]*

PART 2: Opening Checklist for Tenders		
S/N	Item	
1	Is outer envelope of the tender sealed? <i>[Yes/No]</i>	
2	Is the Form of Tender completed and signed? <i>[Yes/No]</i>	
3	Tender Validity Period <i>[insert days]</i>	
4	Is documentary authority for signing enclosed? <i>[Yes/No]</i>	
5	Tender Security <i>[insert currency and amount]</i> or Tender Securing Declaration	
6	Expiration of Tender Security <i>[date]</i>	
7	Indicate if there is any "Substitution", "Withdrawal" or "Modification" submitted	
8	Indicate if there is any alternative tender submitted.	
9	Indicate if there is any discount offered	
10	Has Manufacture's authorization Form (s) been submitted? <i>[Yes/No]</i> How many <i>[insert number]</i>	
11	Name of tenderer or representative present.	
12	Number of separate documents submitted <i>[insert Number]</i>	
13	Additional comments <i>[insert comment]</i>	

Certification of record of the tenders opening meeting:

Chairperson	Name:	Signature:	Position:
Tenderer's Representative	Name:	Signature:	Firm:

Annex II: Preliminary Examination

Tender	Verification	Eligibility	Tender Security	Completeness of Tender	Substantial responsiveness	Acceptance for detailed examination
Tenderer A	Yes	Yes ¹	Yes	Yes	Yes	Yes
Tenderer B	No ²	Yes	Yes	Yes	Yes ³	No
Tenderer C	Yes ⁴	Yes	Yes	Yes	Yes	Yes
Tenderer D	Yes	Yes	No ⁵	No ⁶	Yes	No
Tenderer E	Yes	No ⁷	No ⁸	Yes	Yes	No
Tenderer F	Yes	Yes	Yes	Yes	Yes	Yes

¹ Tenderer is partly owned (25 percent) by government (of Tanzania). It operates under commercial law and is financially and managerially independent of government.

² Joint venture agreement missing.

³ Requires 25 percent mobilization advance; bid document states maximum of 15 percent. Deviation is minor and can be quantified.

⁴ Tenderer pre-qualified as local agent; bid is joint obligation with parent company. Tender deemed acceptable because increase in financial backing results

⁵ Bid security not in freely convertible currency

⁶ Does not include cost for required disposal of hazardous wastes found at the site.

⁷ source of plant from non – eligible country

⁸ Required validity period of security not met (8 weeks instead of 12 weeks)

Annex III: Tender Evaluation Summary Checklist

1. Attach tender opening record.
2. Explain any inconsistencies between prices and modifications to prices read out at tender opening (and written into the record) and presented in Table 4.
3. Check with direct reference to the tenders the compilation of the price quoted by each tenderer, as indicated in the read-out prices, evaluation sheet/ ranking statement.
4. Check once again the tenders of the firms whose offers are proposed to be disqualified, to satisfy that the proposal(s) to disqualify is/are in accordance with the rules.
5. With particular reference to those offers which have been proposed to be disqualified on the grounds of unsatisfactory past performance, check whether the assessment and decision to ignore, is reasonable and valid.
6. With particular reference to those offers which have been proposed to be disqualified on the grounds of fraud or corruption, check whether the assessment and decision to ignore is reasonable.
7. Provide details on eliminating any tender during preliminary examination (Table 5). Copy select pages from tenders, as desirable, to show examples objectionable features.
8. If provisional sums in Table 6 vary among tenderers, explain. Explain any substantial corrections for computational errors that may affect the ranking the tenderers.
9. Provide a copy of the rates requested for Table 7 and used in Tables 8 or 9.
10. The additions, adjustments, and priced deviations in Table 10 require detailed explanations where they may affect the ranking of tenderers.
11. Eligibility for National Preference as indicated in Tables 11 must be verified if the ranking of tenders is affected. Provide details in an attachment. Exclusions to the calculations for preference should be explained if similarly significant.
12. Explain any cross-discount (paragraph 17(b)) not read out and recorded at tender opening. In addition, attach copies of any evaluation reports for the other related contracts awarded to the same tenderer.
13. Provide detailed reasons to award a contract to a party other than the lowest evaluated tenderer (paragraph 17(c)).
14. A detailed examination of one or two higher offers in the vicinity of the one recommended should be made with a view to avoiding possible mistakes.

15. If an alternative tender is accepted, provide a detailed explanation of the reasons for its acceptance, addressing issues of timeliness, performance, and cost implications (paragraph 17(d)).
16. An attachment to Table 12 should explain adjustments to the price provided on line 10. Explain any changes to scope of tender and contract conditions.
17. Provide evidence of alternative insurance.
18. Attach copies of any correspondence from tenderers that raise objections to the tendering and evaluation process, together with detailed responses.
19. Attach copies of any letters to tenderers requesting clarifications. Provide copies of responses.
20. Check whether or not sufficient funds commensurate with the procurement proposals are available.
21. Submit Tender Evaluation Report with separate evaluation report from consultant, if one was commissioned.
22. Ensure that the Tender Evaluation Report is double-checked, paginated, and complete, and includes a Letter of Transmittal.

**Annex IV: Personal Covenant to be signed by each Member of the
Tender Evaluation Committee**

THE PUBLIC PROCUREMENT ACT No. 9 OF 2011

PERSONAL COVENANT 1

1. I [*insert Name and insert designation*] of [*insert name of institution*] being a Member of the Tender Evaluation Committee for Tender No. [*insert Tender No*] of the [*insert name of PE*] for the [*insert name and brief description of the project*] constituted under Section 40 of the Public Procurement Act, 2011 DO HEREBY state as follows:-
 - a) That, I do not have any interest, pecuniary or otherwise, directly or indirectly in any of the tenderers, associations or joint ventures that have submitted pre-qualification applications /tenders for the above mentioned tender; that is to say:-
 - i) M/s
 - ii) M/s
 - iii) etc
 - b) That, all knowledge, reports or any other materials not within the public domain which I may acquire from the evaluation process, by virtue of the performance of my duties as a Member of the said Tender Evaluation Committee, shall for all time and for all purposes be regarded by me as strictly confidential and I shall not divulge them to persons not officially concerned with this evaluation process.
 - c) That, as a Member of the Tender Evaluation Committee shall at all times adhere fully with the terms and conditions contained in the Public Procurement Act 2011 and the Public Procurement Regulations, Government Notice No. 446 of 2013.
 - d) That, the breach of this Covenant or any provisions of the Public Procurement Act, 2011 shall not preclude the institution of criminal proceedings pursuant to the Penal Code, the Prevention of Corruption Act, 2007 or any other written Law against me.
2. Signed [*Signature*] by the said [*insert Name*]
this..... Day of..... 20.....

Annex V: Personal Covenant for each Member of the Tender Board

THE PUBLIC PROCUREMENT ACT No. 9 OF 2011

PERSONAL COVENANT 2

1. I [*insert Name and designation*] of [*insert name of institution*] being a Member of the [*Ministry / Regional/ District etc*] Tender Board of the [*insert name of PE*] constituted under Section 31 of the Public Procurement Act, 2011 DO HEREBY state as follows:-
 - a) That, I do not have any interest, pecuniary or otherwise, directly or indirectly in any of the tenderers, associations or joint ventures that have submitted pre-qualification applications /tenders for the above mentioned tender; that is to say:-
 - i) M/s
 - ii) M/s
 - iii) etc
 - b) That, all knowledge, reports or any other materials not within the public domain which I may acquire from the process, by virtue of the performance of my duties as a Member of the said Tender Board, shall for all time and for all purposes be regarded by me as strictly confidential and I shall not divulge them to persons not officially concerned with this adjudication process.
 - c) That, as a Member of the Tender Board shall at all times adhere fully with the terms and conditions contained in the Public Procurement Act 2011 and the Public Procurement Regulations, Government Notice No. 446 of 2013.
 - d) That, the breach of this Covenant or any provisions of the Public Procurement Act, 9 of 2011 shall not preclude the institution of criminal proceedings pursuant to the Penal Code, the Prevention of Corruption Act, 1971 or any other written Law against me.
2. Signed [*Signature*] by the said [*insert Name*] this..... Day of..... 20.....