



Tender Evaluation Guidelines

Procurement of Works, Goods and Non- Consultant Services

Public Procurement Regulatory Authority
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Preface

This Standard Tender Evaluation Guideline has been prepared by the Public Procurement Regulatory Authority (PPRA) for use by the Procuring Entities in the evaluation of tenders, in accordance with the provisions of the Public Procurement Act No. 7 of 2011 (hereinafter called the Act) and the Public Procurement of (Regulations, 2013-Government Notice No. 466 (hereinafter called Procurement Regulations) as amended.

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

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

Chief Executive Officer
Public Procurement Regulatory Authority,
P.O. Box 2865,
Dodoma

Tel: +255 026 2963854

e-mail: ceo@ppra.go.tz

Link to Website: <http://www.ppra.go.tz>

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How to Use These Guidelines

1. The evaluation forms and guidelines contained in this document provide step-by-step procedures for the evaluation of tenders solicited through national and international competitive tendering. 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)¹ issued by the Public Procurement Regulatory Authority and required for use by public procuring entities. The following relevant STDs are currently available:
 - a) Procurement of Goods ;
 - b) Procurement of Works Medium and Large Contracts (LWK); and
 - c) Procurement of Works Smaller Works Contracts (SWK).
 - d) Procurement of Non-Consultant Services
 - e) Procurement of Supply and Installation
 - f) Leasing of Public Assets
3. Although each of the documents is different, their instructions to Tenderers are very similar. The standard forms and guide in this guideline are based on those instructions to Tenderers, as well as on the Tender Data Sheets (TDS's), which follow the instructions to tenderers and provide contract-specific information.
4. Procuring entities should note that evaluation and the resulting report need not necessarily be lengthy. Procurement of off-the-shelf goods without domestic preference can usually be quickly and easily evaluated. In general, the complexity of evaluation lies with larger works and with the supply and installation of industrial plant and equipment. The forms should invariably accompany the evaluation report, but they may be adapted to suit specific requirements of the tendering documents. 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.
5. Special attention should be made to 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 tenderers. In such

¹ See Regulations 184. When the relevant documents are not available, the use of other international documents may be acceptable after obtaining approval from PPRA.

instances the tender evaluation is to be done separately, including any allowances for domestic preference, for each lot, subject to any cross- discounting.

6. 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. 466 of 2013.)

Section 1: Tender Evaluation Standard 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) Domestic Preference for Goods
- n) Domestic Preference for Works and Non-consultant Services
- o) Proposed Contract Award

Standard Cover

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

Name of the PE: _____

Name of Project: _____

Contract Name: _____

Identification/Tender Number: _____

Date of Submission to PMU: _____

Letter of Transmittal

1. The tender evaluation report should be attached with a Letter of Transmittal from Procurement Management Unit (PMU) responsible for communication with the appropriate tender board.
 2. The content of the letter should constitute:- (i) Conclusion highlights (ii) any additional information that would help to expedite approval by the appropriate tender board. (iii) Highlights of any unresolved or potentially contentious issues. The evaluation report (in the required number of copies) together with the letter should be sent to the appropriate tender board for discussion or decision.
2. The evaluation report and recommendation for award of contract shall be forwarded to the appropriate tender board for adjudication and approval before the procuring entity seeks external clearance or invites the approved tenderer for contract finalization and signature. The report shall be accompanied by originals of all the tenders received.

Table 1: Identification

1.1 Closing date (a) original (b) revised	_____ _____
1.2 Name of project	_____
1.3 Purchaser (or Employer) (a) name (b) address	_____ _____
1.4 Contract number (identification)	_____
1.5 Contract description	_____
1.6 Source of funds	_____
1.7 Method of procurement (check one)	ICT _____ NCT _____ Other _____
1.8 Preference allowed	Yes _____ No _____
1.9 If preference is not allowed, state reasons	_____
1.9 Fixed price contract	Yes _____ No _____
1.10 Co-financing, if any: (a) agency name (b) percent financed by agency	_____ _____

Table 2: Tendering Process

<p>2.1 General Procurement Notice</p> <p>(a) First issue date</p> <p>(b) Latest update (if any)</p> <p>2.2 Pre-qualification, if required</p> <p>(a) number of firms pre-qualified</p> <p>(b) date of tender board's approval</p> <p>2.3 Specific procurement notice</p> <p>(a) Date advertised in the Journal (b) Date advertised in the Tenders' Portal</p> <p>(c) Latest update</p> <p>(d) Date advertised on TANePS</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>(a)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2.4 Number of firms issued documents</p>	<p>_____</p>
<p>2.5 Amendments to documents, if any</p> <p>(a) list all issue dates</p> <p>(b) date(s) of tender board's approval</p>	<p>1. _____ 2. _____ 3. _____</p> <p>1. _____ 2. _____ 3. _____</p>
<p>2.6 Date of pre-tender meeting or site visiting, if any</p>	<p>_____</p>
<p>2.7 Date minutes of pre-tender meeting or site visit made available sent to Tenderers</p>	<p>_____</p>

Table 3: Tender Submission and Opening

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

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)(ii), 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 <i>(a)</i>	Verification ³ [Indicate provision in tendering document] <i>(b)</i>	Eligibility [Provision in tendering document] <i>(c)</i>	Tender Security [Provision in tendering document] <i>(d)</i>	Completeness of tender [Provision in tendering document] <i>(e)</i>	Substantial commercial responsiveness ⁴ <i>(f)</i>	Acceptance for detailed examination <i>(g)</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.

³ List here all the conditions provided in the Tendering Documents which tenderers must comply with for their tenders to be considered commercially responsive,

⁴ No major commercial deviations

Table 5B: Preliminary Examination
[Technical Responsiveness]

Tenderer <i>(a)</i>	Technical Specification 1 [Indicate ⁵ provision in tendering document] <i>(b)</i>	Technical Specification 2 [Indicate provision in tendering document] <i>(c)</i>	Technical Specifications 3 [Indicate provision in tendering document] <i>(d)</i>	Technical Specification 4 [Indication provision in tendering document] <i>(e)</i>	Substantial ⁶ Technical Responsiveness <i>(f)</i>	Acceptance for detailed examination <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.

⁵ List here all the conditions provided in the Tendering Documents which tenderers must comply with for their tenders to be considered commercially responsive,

⁶ 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 preliminary 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 Rate¹ : _____

Authority or Publication Specified for Exchange Rate: _____

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

1. Regulation 216 of GN. 446, 2013

Table 8: Currency Conversion (Multiple Currencies)

Specify Evaluation Currency: _____

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

Note: This table is to be used for GDS and Option B of LWK. 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	Corrected / discounted tender price (in specified currency)	Payment composition			Exchange Rate used by tenderer ¹	Amounts in currency of payment (g) = (e)x(f)	Exchange rate for Evaluation ²	Evaluation currency	
		Currency of payment	Percent of total tender	Amount in evaluation currency				Tender price	Total ³
(a)	(b)	(c)	(d)	(e)=(b)x(d)	(f)	(g) = (e)x(f)	(h)	(i)=(g)x(h)	(j)

Note: This table is used for SWK and Option a of LWK. Columns a and b are from Table 6, columns a and i.

¹ Columns c, d, and f are provided in the LWK Appendix to Tender and in the (form of) Tenderer’s Tender in the SWK.

² Column h is from Table 7

³ Column j is the sum of tender prices in column I for each tenderer.

Table 10: Additions, Adjustments, and Priced 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: Domestic Preference for Goods

Specify Evaluation Currency: _____

Tenderer <i>(a)</i>	Domestic preference group ¹ <i>(b)</i>	Total price ² <i>(c)</i>	Exclusions for preference ³ <i>(d)</i>	Revised total <i>(e) = (c) - (d)</i>	Prevailing tariff (%) ⁴ <i>(f)</i>	Domestic preference (%) ⁵ <i>(g)</i>	Preference price ⁶ <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 procuring entity

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: Domestic Preference for Works

Specify Evaluation Currency: _____

Tenderer <i>(a)</i>	Domestic preference group¹ <i>(b)</i>	Total price² <i>(c)</i>	Exclusions for Preference³ <i>(d)</i>	Revised Total <i>(e) = (c) - (d)</i>	Preference⁴ <i>(f)</i>	Total comparison price <i>(g) = (c) + (f)</i>
Etc.						

¹ Column b refers to Group a (eligible domestic tenderers) or Group B (others) as indicated by tenderer, subject to verification by procuring entity

² column c is from Table 10 column f. If the lowest priced tender is from a Group A tenderer, it is the lowest evaluated tenderer, and the remainder of the table need not be filled out.

³ Column d is the sum of costs in columns d and e from Table 10. An attachment should be provided to explain the significant components of column d. Columns d and e may be left blank for Group A tenderers.

⁴ Column f for Group A tenders is zero. For Group B tenderers, column f is the specified percentage for percent of column e

Table 13: 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 goods/ 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 *6*

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, express secondary currency amounts as percentages.

Section II: Appointment of Committees Members

1. **Committee**
 - 1.1 For each engagement of goods, works and non-consultancy services, the accounting officer or chief executive officer concerned shall appoint the following committees, to act in accordance with the Regulations:-
 - a) evaluation committees; and
 - b) negotiation committees
 - c) inspection and acceptance committee as appropriate
 - 1.2 Every committee shall have an expert or a person qualified in the subject matter of the particular procurement.
 - 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 more than five government officials (AO may vary under exceptional circumstances) with exception from Negotiation Team, who possess necessary qualifications and experience, at least one official from public entities who is a specialist or qualified person in the field of particular procurement to be called for.

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 with justified reason 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 public authority concerned 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, analyses, evaluate, compare and rank all tenders,
- c) Prepare and submit the number of copies of the report required by the respective tender board or the approving authority or other authority to the respective PMU for review.

5. **Disclosure of the names of the tenderers 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 committee on account of interest in contracts**

If a member of a committee appointed in accordance with paragraph 2 has any pecuniary 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 the Public Procurement Regulations, 2013- Government Notice No. 466 of 2013. The Code of Ethics shall be signed in advance of the evaluation exercise to signify absence or presence of conflict of interest by evaluation committee members

- 6.3 In accordance with Regulation 82(2) of the Public Procurement (Regulations, 2013- Government Notice No. 466 of 2013, the chairperson of the appropriate tender board, as the case may be and the Secretary of the appropriate tender board 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. 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 goods, works or services at the most economic cost to the purchaser. Price is only one component of the real cost of a tender to the procuring entity.

Other factors that can constitute significant elements of the cost to the procuring entity 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 procuring entity 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 procuring entity 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:-

10.1 Step 1: Basic Data

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.

10.2 Step 2: Record of tender opening

An official record of tender opening, identifying all the tenders received, the tender prices, alternative tenders, and tender security amounts announced at the public opening of tenders or bid securing declaration should be formally prepared.

10.3 Step 3: Preliminary Examination of Tenders

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 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 (where the period offered is particularly less than the required period in the tender documents);
 - 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.

Tenders meeting these conditions are declared to be substantially responsive.

c) 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 tender for the required scope of works.
 - v) failure to meet major technical specifications.
 - vi) inability to meet critical delivery criteria; and conditional tenders.
- d) 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.
- e) 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

Detailed Evaluation

10.4 Step 4: Correction of arithmetical errors

All substantially responsive tenders must firstly be examined for arithmetic errors. All calculations should be checked, in the case of civil works tenders which have been invited on the basis of a bill of quantities, for goods schedule of prices and for non-consultant services activity schedule. Any difference between the unit prices and the total must be corrected. The unit prices must rule.

10.5 Step 5: Currency of tender comparison

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 an official source 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.

10.6 Step 6: Comparison of tenders

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 technical requirements of all major pieces of equipment (plant horsepower / capacity; speed; voltage pressure; operating temperature) and their performance characteristics (plant efficiency; fuel consumption in the cost of the items
- c) Scrutinize rigorously and compare tenders on this basis.

10.7 Step 7: Financial adjustment of tender prices

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:-

- 1) For Goods:-
 - 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) For goods, tenders usually evaluated on one of the following basis:-
 - i) supply of equipment only,
 - ii) supply of equipment including transportation to project site
 - iii) supply and installation of equipment

2) For works and non-consultant services:-

For tender comparison purposes only, in the case of works and non-consultant services, contractors and service provider are responsible for all duties, taxes and other levies, and tenderers should take this into consideration in preparing their tenders.

3) Price escalation

Tender document should preferably lay down the formula applicable to all tenderers (see sample tendering documents). Ignore the effect of the price adjustment provisions since this will be speculative.

10.8 **Step8: Evaluation with Margin of Preference for Goods**

(1) Where a procuring entity has allowed a margin of preference in accordance with Regulation 33, 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 goods manufactured, grown, mined or extracted in the United Republic of Tanzania, responsive tenders shall be classified in one of the following three groups;

(a) Group A:

Tenders offering goods manufactured, grown, mined or extracted within the United Republic of Tanzania, provided that the tenderer establishes to the satisfaction of the procuring entity 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 goods offered, and

- (ii) the production facility in which those goods will be manufactured, assembled or processed has been engaged in manufacturing, assembling or processing such goods at least since the time of submission of the tender.

(b) Group B:

All other tenders offering goods manufactured outside the United Republic of Tanzania, already imported.

(c) Group C:

Tenders offering goods manufactured 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 domestic market or imported, but shall exclude any sales and similar taxes on the finished product.
- (4) The price quoted in Group C tenderers shall be on CIF or CIP port of entry, border point or other destination, exclusive of customs duties and other import taxes
- (5) The procuring entity 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 proposed 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 goods offered in such Group C tender, or
 - (ii) fifteen per cent of the CIF or CIP tender price of such goods if the said duties and charges exceed fifteen per cent of such price shall be added to the evaluated tender price of the imported goods 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 proposed for an award.
- (10) In the case of tenders for the supply and installation of goods, turnkey contracts or any other form of procurement contract in which a number of discrete items of equipment is grouped into one contract package, a margin of preference shall not be applied to the whole package, but only to goods manufactured in Tanzania, as defined in (1) above.
- (11) The price for goods offered from abroad shall be quoted CIF or CIP, and the price for goods 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, works, installation, and supervision, shall be quoted separately.
- (12) In the comparison of tenders, only the CIF or CIP price for goods 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.
- (13) If duties vary from item to item within a package, the appropriate tariff for each goods or piece of equipment shall apply but no preference shall be applied for any associated

services or works included in the package.

10.9 **Step9: Evaluation with Margin of Preference for Works or Non-Consultant Service**

- (1) Where a procuring entity has allowed a margin of preference in accordance with Regulation 33, domestic contractors or service providers, shall be asked to provide, as part of the data for qualification, details of ownership and such other information as shall be required to determine whether a contractor, service provider, a group of contractors, or a group of service providers is qualified for domestic preference.
- 2) The tender documents shall clearly indicate that a margin of domestic preference will be granted and the method that will be followed in the evaluation and comparison of tenders to give effect to such preference.
- (3) After tenders have been received and reviewed by the procuring entity responsive tenders shall be classified into the following groups:
 - (a) **Group A:** tenders offered by domestic contractors or service providers eligible for the preference;
 - (b) **Group B:** tenders offered associations between domestic and foreign contractors or service providers eligible for the preference
 - (c) **Group C:** tenders offered by foreign contractors or service providers.
- (4) The procuring entity shall first evaluate and compare all responsive tenders so as to determine the lowest evaluated tender within each group.
- (5) 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 proposed for the contract award.
- (6) If as a result of the comparison made under (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.
- (7) For the purpose of evaluation and comparison of tenders, an amount equal to the specified margin of preference shall be added to tenders received

from contractors or service providers in Group C and B.

10.10 Step 10: Lowest evaluated tender

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.

10.11 Step 11: Post qualification

1. Where prequalification was not undertaken, full post-qualification shall be performed to determine whether the lowest evaluated tender has the legal capacity, capability and resources to carry out the contract. If pre-qualification was undertaken, partial post qualification by evaluation committee shall be undertaken by verifying qualifications of the tenderer through documents which must be stated in the tendering documents.
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.

Abnormally Low Price

1. 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) Neither the Authority nor the Procuring Entity shall incur liability solely by rejecting abnormally tender; and
 - (e) An abnormally low tender means, in the light of PE's evident knowledge of the market price; the Procuring Entity's estimate budget; and of all the tenders submitted, the tender appears to be abnormally low by not providing a margin for normal levels of profit
2. A procuring entity may seek independent references of a tenderer and the results of reference checks may be used in determining award of contract.
 3. 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.
 4. 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.

5. 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.
6. 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

11.1 Identification, tendering process, and tender submission

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. 466 of 2013 on advertising and contents of invitation to tender.

12 Tender opening¹

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 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

¹ See Public Procurement Act No. 9 of 2011 and the Public Procurement Regulations, 2013 - Government Notice No. 466 - Regulation 196.

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) (ii) in this Annex).

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 cable, 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 Instructions to Tenderers 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 Instructions to Tenderers, Public Procurement Act No. 9 of 2011 and the Public Regulation 191 of Procurement of Regulations, 2013- (GN No. 466 of 2013,). Extensions to the validity of tender security should also be requested of tenderers, if necessary.² Note any extensions in Table 3.

14 **Principles of Evaluation**

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 until the successful tenderer is notified of the award of contract ((Regulation 233 of

² 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.

Procurement of Regulations, 2013- GN No. 466 of 2013).

On occasion, the procuring entity may request clarifications of tenderers concerning ambiguities or inconsistencies in the tender. As required in the Instructions to Tenderers, such requests shall be in writing, and no change in the price or scope of the originally offered goods, works, or services 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 communication. No circumstances shall justify meetings or conversations between the procuring entity (or its consultants) and tenderers during the tender evaluation process.

Tenderers frequently attempt to contact the procuring entity 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 only.³ Procuring entities 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**

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 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

³ On occasion, tenderers approach the tender boards with information

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 juristic 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 goods and services shall originate from eligible source countries. In the case of plant and equipment, this
- (c) eligibility test is applied only to the finished product offered in the tender and to its major and clearly identifiable components. If pre-qualification has taken place, only tenders from pre-qualified tenderers can be considered.⁴ 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 Instructions to Tenderers for details.)
- (d) Tender security: The tendering document may require submission of a tender security. If so, the tender security must conform to the requirements of the Instructions to Tenderers, 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 procuring entity's bank instead of the procuring entity is unacceptable. Furthermore, securities for an amount smaller or for a period shorter than the one specified in the Instructions to Tenderers 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.
- (e) Tender Securing Declaration: The Tender Securing Declaration where required shall be

⁴ The juridical entities of the pre-qualified tenderers may not be modified in the submission of tenders.

submitted in accordance with the instruction to tenderers. Tender Securing Declaration for joint ventures shall be in the names of all partners of the joint venture.

- (f) 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. However, under works contracts, missing prices for occasional work items are considered to be included in prices for closely related items elsewhere. 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 15(g) below. Missing pages in the original copy of the tender may cause for rejection of the tender, as may contradictions in model numbers or other designations of critical supply items.

- (g) 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 a different design or product that does not offer substantial equivalence in critical performance parameters or in other requirements;

 - (iii) Phasing of contract start-up, delivery, installation, or construction 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 Instructions to Tenderers as requiring rejection of the tender (such as, in the case of works, participating in the submission of another's tender other than as a subcontractor).

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.

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 11. Procuring entities 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

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 Instructions to Tenderers. 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 procuring entity in accordance with the Instructions to Tenderers. 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 procuring entity 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. However, those provisional sums set aside for Dayworks,⁵ where priced competitively, should not be included in the deductions.
- (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 Instructions to Tenderers 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 Instructions to Tenderers. The exchange rates to be used in the calculations are to be

⁵ Refers to unforeseen work. For details, see LWK or SWK

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.

There are two different currency options for tendering/payment, each requiring a different conversion methodology:

- (i) The GDS and Option B of LWK use the multiple currency option, in which the tender price is expressed in a number of currencies. For this procurement, use Table 8.
 - (ii) The SWK and Option A of LWK use the single currency option, in which the tender price is expressed entirely in a specific currency, usually in Tanzania Shillings, with other foreign currency requirements stated as percentages of the tender price, together with the exchange rates used by the tenderer to determine the percentages. For LWK single currency tenders, sections of the Works may require payment in different currencies and proportions. In such instances, the impact of any corrections found will require a lengthier analysis for each tender, based on the submitted Appendix to Tender. Table 9 is to be used for these 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 Instructions to Tenderers 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 Instructions to Tenderers 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 Instructions to Tenderers.⁶ The value of adjustments will be expressed in terms of cost, for all works and most goods contracts, and should be shown in Table 10, column d and expressed in the evaluation currency.

- (g) Priced deviations: As discussed under paragraph 15(g), 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 Instructions to Tenderers foresees the eventuality and specifies a rate.
 - iii) If a tender provides for a delivery or completion period that is beyond the

⁶ Similarly, a tender offering a choice of different product models is evaluated on the basis of the lowest price offered by the tenderer from among the models meeting the requirements of the tendering document.

date specified in the tendering documents but that is nonetheless technically acceptable to the procuring entity, the time advantage given should be assessed a penalty specified in the Instructions to Tenderers 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. The monetary value of each minor deviation shall not exceed 0.001 percent of the corrected tender price obtained from the price schedule or bill of quantities.

17 **Determination of award**

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

- 1) Application of domestic 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) Domestic preference:

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

- i) With respect to goods contracts, 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,⁷ they are to be used as to the amount of preference. Also, the eligibility of goods for domestic

⁷ 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 *INCOTERMS 2010* International Chamber of Commerce,.

preference must be examined according to the criteria 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 domestic preference is added (like a tariff) to the CIF or CIP tender prices of the goods offered from abroad.⁸ 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, installation, 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 (such as insufficient spare parts). 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 domestic 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.

- ii) Any domestic preference eligibility allowed under works contracts is dependent on ownership criteria and on the share of work to be undertaken. The domestic preference is provided by adding a specified percent of the preference to the corrected and discounted tender prices of tenderers not eligible for domestic preference. The Instructions to Tenderers excludes domestic preference application to any provisional sums, as well as to adjustments or priced deviations. The lowest evaluated tenderer is the tenderer with the lowest total in column g of Table 12.

⁸ This occurs if the apparent low tenderer from the first step is importing the goods

- (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 goods contracts where domestic 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 financial and technical capacity.⁹ Thus, a tenderer offering the lowest evaluated tender on a particular contract may be denied award because of such a restriction. The procuring entity 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.

Post Qualification: Where 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 or expiry of some of its qualifications. In this case, Evaluation committee shall conduct partial post-qualification as part of evaluation exercise by verifying part of the lowest evaluated tenderer that may have been affected given lapse of time from pre-qualification, prior to submission of evaluation report to the Tender Board by PMU. Where special expertise may be required during partial post qualification, the Accounting Officer considers such expertise during appointment of the evaluation committee.

Where pre-qualification has not occurred, the prospective award should be subjected to full post-qualification, the procedures for which are described in the Instructions to Tenderers.¹⁰

⁹ This restriction may originate with pre-qualification.

¹⁰ The Annex in the PPRA's Standard Pre-qualification Document is useful for post-qualification evaluations.

- (c) The procuring entity should satisfy itself fully on both accounts by carrying out the post-qualification of the Tenderer using only the requirements specified in the TDS. In case where the tender price of the lowest evaluate tenderer is considered to be abnormally low, the PE shall perform price analysis as part of the post-qualification. Procuring entity shall seek clarification from the bidder whose bid is determined to be abnormally low and PE shall take necessary initiatives to verify and satisfy itself whether any justifications given by the tenderer are valid before accepting or rejecting its tender.

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 after obtained prior approval from respective tender board. If successful, this tenderer should be proposed for the award. If not, the process continues.

The rejection of a tender for reasons of post 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: Instructions to Tenderers may request or allow the procuring entity to accept alternative tenders under the stipulation that only the alternative submitted by the lowest evaluated tenderer and conforming to the tendering documents will be considered.
- (i) For works, the Instructions to Tenderers may allow alternative technical solutions and/or alternative times for completion.
- (ii) For goods, the Instructions to Tenderers 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 CFR¹¹ The procuring entity, 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 Instructions to Tenderers for corrections, any discounts (including cross-discounts), and acceptance by the procuring entity of alternative offers from the lowest evaluated tenderer. Table 13 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 procuring entity may consider rejection of all tenders (prior tender board concurrence is require

- (f) Report submission

- i) The e evaluation committee must submit the completed tender evaluation report containing the required summary to the PMU for reviewing prior to submitting to the appropriate tender.
- 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) Procuring entities 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.

¹¹ INCOTERMS 2010

- (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 will 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 procuring entity 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 Tenderers

18 Negotiations with Tenderers

Negotiations may be undertaken with the lowest evaluated tenderer relating to the following areas in accordance with the Regulation 225 of Government Notice No. 466 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 or work schedule to accommodate any changes required by the procuring entity;
- (g) the methodology or staffing; or
- (h) clarifying details that were not apparent or could not be finalised at the time of bidding.
- (i) For the purpose of reducing price tendered

Negotiations shall not be conducted so as:

- (a) to substantially change the specification or details of the requirement, including tasks or responsibilities of the tenderer;
- (b) to materially alter the terms and conditions of contract stated in the solicitation document;
- (c) purely for the purpose of increasing prices in case of disposal of assets; or
- (d) to substantially alter anything which formed a crucial or deciding factor in the evaluation of tender.

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.

Negotiations with a tenderer are not permitted until after the tender board has approved the evaluation committee's recommendations.

19. Membership and conduct of negotiations

In accordance with Public Procurement Regulations, 2013 - Government Notice No. 466 of 2013 (Regulations 226, 227, and 228):

- (a) PMU shall recommend membership of a negotiation team based on appropriate seniority and experience depending on the value and complexity of the procurement or disposal 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 or disposal requirement, but shall in all cases be a minimum of three, and may include members of the original evaluation committee or different officers. If it is necessary that the number of negotiation team members be increased, the accounting officer shall request the Paymaster General for the approval.
- (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 subject of the procurement or disposal.
- (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 procuring entity 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 Regulation 228 (2) of the Public Procurement Regulations, Government Notice No. 466 of 2013

Section VI: Contract Award and Notification

20. Award of contract

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 | 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 the Regulation 51 of Public Procurement of Regulations, 2013 - Government Notice No. 466 . 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 PMU | Likewise where a tender board disagrees with the recommendations of the procurement management unit, the matter should be handled in accordance with Regulation 52 of Public Procurement of Regulations, 2013 - Government Notice No. 466. |
| 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 Regulation 53 of Public Procurement Regulations, 2013 - Government Notice No. 466 |
| 24. | Disagreement between the 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 Regulation 51 of Public Procurement Regulations, 2013 - Government Notice No. 466. |

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 <i>(currency)</i>	Tender Validity Period	Tender Security and Amount <i>(if applicable)</i> or Tender Securing Declaration	Power of Attorney <i>(if applicable)</i>	Manufacturer Authorization <i>(if applicable)</i>	Remarks
1							
n th							

Certification of record of the tender opening meeting:

Chairperson	Tenderer 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</i>	

	<i>Number]</i>	
13	Additional comments [<i>insert comment</i>]	

Certification of record of the tenders opening meeting:

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

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
Tenderer G	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; Tender Document states maximum of 15 percent. Deviation is minor and can be quantified.

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

⁵ Tender 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)

Tenderer H	Yes	Yes	Yes	Yes	Yes ⁹	Yes

⁹ Contains several initialled changes substituting ISO standards in the specifications with DIN standards. This is acceptable to the Engineer-in-charge.

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 of 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 domestic preference as indicated in Tables 11 or 12 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 13 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. The tender boards will only review reports that are sent to them by the proper authorities.
23. Send by courier or by other swift means.

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

THE PUBLIC PROCURMENT ACT No. 7 OF 2011

PERSONAL COVENANT 1

1. I (*name*) (*designation*) of (*name of institution*) being a Member of the Tender Evaluation Committee for Tender No. of for the 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, 2013-Government Notice No. 466 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, or any other written Law against me.
2. Signed (*signature*) by the said(*name*) this day of 20.....

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

THE PUBLIC PROCUREMENT ACT No. 7 OF 2011

PERSONAL COVENANT 2

1. I (name) (designation) of (name of institution) being a Member of the [Ministry / Regional/ District etc] Tender Board of the 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 contractors/Suppliers/ consultants, firms, associations or joint ventures that have submitted expressions of interest / proposals / tender 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, the Public Procurement Regulations, 2013 - Government Notice No. 466 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 or any other written Law against me.
2. Signed (signature) by the said(name) this day of 20.....