

# **Standard Tender Evaluation Form and Evaluation Guide**

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## **Procurement of Works**

**December 2018**

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## Preface

Procurement under projects financed by the European Bank for Reconstruction and Development (the Bank), is carried out in accordance with procedures laid down in the Bank's Procurement Policies and Rules (the Rules). This Standard Tender Evaluation Form (STEF) has been prepared for use by the Bank's public sector clients for contracts for Works financed from the proceeds of a loan from the Bank.

Prior to the receipt of tenders, the client should appoint an Evaluation Committee (EC), which should include a Chairperson, which will be responsible for carrying out the evaluation and making an award recommendation for the consideration of the client's management and the Bank. The EC should include experienced members having technical expertise relevant to the procurement in hand. Where the client's staff does not have the necessary experience or expertise to carry out the evaluation on their own, the client should retain competent independent consultants to assist the EC.

The purpose of the tender evaluation is to identify the most economically advantageous tender. The lowest evaluated tender is determined by applying the evaluation criteria which have been specified in the tender documents. The tender with the lowest evaluated cost, but not necessarily the lowest submitted tender price, shall be selected for award.

It should be noted that it is the Bank's client that is responsible for carrying out all procurement activities and decisions in accordance with the Bank's Procurement Policies and Rules (the Rules). The Bank monitors the process and reviews critical documents and decisions to assure itself that the Rules are being followed. If the Bank determines that any procurement document, action or decision is not consistent with the Rules, it will inform the client and if the client fails to rectify the inconsistency, the contract in question would not be eligible for financing with the proceeds of the Bank's loan.

Members of the appointed EC are required to sign a "Declaration of Impartiality and Confidentiality" in the attached format. A copy of this declaration shall be attached to the final version of the STEF in Attachment 1.

The EC is required to attach to the final version of the STEF in Attachment 2 final draft letters to the unsuccessful tenderers.

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

Procurement Policy and Advisory Department  
European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom  
e-mail: [procurement@ebrd.com](mailto:procurement@ebrd.com)

## DECLARATION OF IMPARTIALITY AND CONFIDENTIALITY

**Project Name:**.....[insert].....  
**Tender/Contract Title:** .....[insert].....  
**Tender/Contract Reference:** .....[insert].....

I, the undersigned, having been nominated by [*the Contracting Authority..... [insert].....*] as a member of the Evaluation Committee for the above referenced tender/contract hereby declare that I agree to participate in the evaluation and declare that, to my knowledge, I have no conflict of interest with any tenderers who have submitted a tender for this contract, including persons or members of any joint venture or consortium, or any proposed subcontractors.

I confirm that if I discover during the evaluation that such a conflict exists or might exist, I shall declare it immediately to the Chairperson of the Evaluation Committee and Contracting Authority. In the case that such conflict is confirmed by the Chairperson and Contracting Authority, I agree to cease from participating in the Evaluation Committee.

I confirm that I have familiarised myself with the information available to date concerning this tendering exercise, including the tender documents and the European Bank for Reconstruction and Development's Procurement Policies and Rules (the Rules).

I shall execute my responsibilities impartially and objectively. I further declare that, to the best of my knowledge, I am not in a situation that could cast doubt on my ability to evaluate the tenders. I declare that I shall maintain the strictest confidentiality in respect of all information acquired as a result of my involvement in the evaluation process. I undertake neither to disclose such information to any unauthorized person who does not already have right of access to such information, nor to discuss it with any person in any public place or where others could overhear it.

I furthermore undertake to use this information only in the context, and for the purposes of, the evaluation of this specific tender evaluation process. I understand that any unauthorized disclosure by me will result in the termination of my role as a member of this Evaluation Committee and may also render me liable to legal action.

I undertake to maintain this duty of confidentiality after the conclusion of my term as a member of this Evaluation Committee.

Name	Function	Representing	Signature


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## How to Use These Forms

1. The evaluation forms and guide contained in this document provide step-by-step procedures for the evaluation of tenders solicited through open tendering procedures. In all instances, the tendering and evaluation procedures described in the Instructions to Tenderers (ITT) of the actual tender document used should be followed.
2. Open tendering for Works contracts is to be conducted using the latest version of the Standard Tender Document (STD) for the Procurement of Works issued by the Bank.
3. The following standard forms and guide are based on the Instructions to Tenderers (ITTs) contained in the STD, as well as on the Tender Data Sheets (TDSs), which follow the ITT and provide contract-specific information.
4. The forms which comprise Section I should invariably accompany the evaluation report, but they may be adapted to suit specific requirements of the tender documents. The report should include a number of attachments to explain details of tender evaluation or to show specific controversial wording or numbers in a tender. Cross-referencing should be used extensively, as well as references to pertinent clauses in the tender documents.
5. Special mention 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 tenderers. In such instances the tender evaluation is to be done separately, subject to any cross-discounting.
6. Annexes I – V, along with all guidance notes and other provisions in italic fonts that contain instructions and guidance are provided to assist drafters should be removed from the final version of the tender evaluation report submitted to the Bank.

# Section I. Tender Evaluation Standard Forms

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

Name of Project: \_\_\_\_\_

Loan No.: \_\_\_\_\_

Contract Name: \_\_\_\_\_

Contract Identification Number: \_\_\_\_\_

Date of Submission: \_\_\_\_\_

## Letter of Transmittal

If the contract is subject to prior review, the tender evaluation report should be attached with a Letter of Transmittal from the client. The letter should highlight conclusions and offer any additional information that would help to expedite review by the Bank. In addition, any unresolved or potentially contentious issues should be highlighted. The letter should be sent to the Bank's Operation Leader responsible for the project unless another Bank official has been designated by the Bank for such correspondence.

**Note:** For contracts not subject to prior review, the client shall furnish to the Bank, prior to the submission of a withdrawal application in respect of such contract, a conformed copy of such contract, together with a tender evaluation report for its review and no objection

**Table 1. Identification**

1.1 Name of project	_____
1.2 Name of client	_____
1.3 Loan or Legal Documentation number	_____
1.4 Date of Loan effectiveness	_____
1.5 Last Availability Date (LAD)	
(a) original	_____
(b) revised ( <i>if applicable</i> )	_____
1.6 Contract number (identification)	_____
1.7 Contract description	_____
1.8 Cost estimate (as per the procurement plan no-objected by the Bank)	_____
1.9 Method of procurement (tick one)	Open _____ Selective Tendering _____ Local Competitive Tendering _____ Shopping _____ Other _____
1.10 Prior review required	Yes _____ No _____

**Table 2. Tendering Process**

<p>2.1 General Procurement Notice (GPN)</p> <p>(a) date of publication on client’s website, official government portal or newspaper with wide circulation;</p> <p>(b) date of publication on Bank’s website; and,</p> <p>(b) date of publication of latest update (if applicable)</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2.2 Prequalification, (<i>if applicable</i>)</p> <p>(a) number of firms prequalified</p> <p>(b) date of Bank’s no-objection</p>	<p>_____</p> <p>_____</p>
<p>2.3 Publication of Specific Tender Notice (<i>if applicable</i>)</p> <p>(a) date of publication on client’s website, official government portal or newspaper with wide circulation;</p> <p>(b) date of publication on Bank’s website; and,</p> <p>(c) date of publication in international publication (if applicable).</p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p>2.4 Tender Document</p> <p>(a) date of Bank’s no-objection</p> <p>(b) date of availability to tenderers</p>	<p>_____</p> <p>_____</p>
<p>2.5 Number of firms that purchased tender documents</p>	<p>_____</p>
<p>2.6 Amendments to documents, <i>if any</i></p> <p>(a) list all issue dates</p> <p>(b) date(s) of Bank’s no-objection</p>	<p>1. _____ 2. _____ 3. _____</p> <p>1. _____ 2. _____ 3. _____</p>
<p>2.7 Date of pre-tender conference and/or site visit, if any</p>	<p>_____</p>
<p>2.8 Date minutes of pre-tender conference and/or site visit sent to tenderers and Bank</p>	<p>_____</p>
<p>2.8 Clarifications to Tender Documents</p> <p>(a) list all issue dates</p>	<p>1. _____ 2. _____ 3. _____</p>

**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 Date Minutes of Tender Opening sent to Bank	<hr/>
3.4 Number of tenders submitted	<hr/>
3.5 Tender validity period (days) (a) originally specified (b) extensions, if any (c) date of Bank's no-objection, if required <sup>1</sup>	<hr/> <hr/> <hr/>

**Note:**

<sup>1</sup> Refer to Annex I, para. 3 herein.

**Table 4. Tender Prices (as Read Out)**

Tenderer Identification			Read-out Tender Price(s)		Modifications, Alternatives, Discounts or Comments <sup>1</sup>
Name <i>(a)</i>	City <i>(b)</i>	Country <i>(c)</i>	Currency(ies) <i>(d)</i>	Amount(s) <i>(e)</i>	

<sup>1</sup> 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 Annex I, para. 2 herein. To avoid subsequent disputes with regard to whether read out Tender Prices are inclusive or exclusive of VAT is it advisable to also announce and record whether the read out Tender Prices are inclusive or exclusive of VAT.

**Table 5. Preliminary Examination**

Tenderer <i>(a)</i>	Verification <i>(b)</i>	Eligibility <i>(c)</i>	Tender Security <i>(d)</i>	Completeness of Tender <i>(e)</i>	Acceptance for Detailed Examination <i>(f)</i>	Comments <i>(g)</i>

**Note:** For explanations of headings, see Annex I, para. 5 herein. See example in Annex IV.

**Table 6 – Detailed Examination of Tenders**

**1. Name of Tenderer:** \_\_\_\_\_

1.1 Commercial Evaluation

*{Insert details}*

1.2. Technical Evaluation

*{Insert details}*

1.3 Summary of Deviations/Reservations and Omissions identified in Tender.

Identified Deviations/Reservations and Omissions	Clause Reference in Tender Documents	Nature of Deviation (material or non-material)	Comments <sup>1</sup>

Note:

<sup>1</sup> In accordance with Annex 1, Evaluation Guide, 6 – Detailed Evaluation of Tenders, in the event that any deviation/reservation or omission is determined by the Evaluation Committee to constitute a material deviation, a detailed justification and explanation for this determination must be provided in this section of the Evaluation Report. Any tenders determined as containing material deviations, as defined in the ITT, shall be rejected at this stage and not considered further in the evaluation process.

**Table 7. Corrections and Discounts**

Tenderer <i>(a)</i>	Read-out Tender Price(s)		Corrections		Corrected Tender Price(s) <i>(f) = (c) + (d) - (e)</i>	Discounts		Corrected/Discounted Tender Price(s) <i>(i) = (f) - (h)</i>
	Currency <i>(b)</i>	Amount <i>(c)</i>	Computational Errors <sup>1</sup> <i>(d)</i>	Provisional Sums <i>(e)</i>		Percent <i>(g)</i>	Amount(s) <i>(h)</i>	

**Note:** Only tenders accepted for detailed examination should be included in this and subsequent tables.

<sup>1</sup> Corrections in column *d* may be positive or negative.

**Table 8. Exchange Rates**

*(Note: If the currency of the tender and the currency for payment are a single currency, the text in Table 8 – Exchange Rates, Table 9 – Currency Conversion (Multiple Currencies) and Table 10 – Currency Conversion (Single Currencies) shall be deleted and replaced with the words “Not Applicable”).*

Currency Used for Tender Evaluation: \_\_\_\_\_

Effective Date of Exchange Rate: \_\_\_\_\_

Authority or Publication Specified for Exchange Rate: \_\_\_\_\_

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

**Table 9. 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) <sup>1</sup> <i>(d)</i>	Evaluation Currency	
				Tender Price(s) <i>(e) = (c) x (d)</i>	Total Tender Price <sup>1</sup> <i>(f)</i>

**Note:**

<sup>1</sup> Column *f* is the sum of tender prices in column *e* for each tenderer.

**Table 10. Currency Conversion (Single Currency)**

Specify Evaluation Currency: \_\_\_\_\_

Tenderer  <i>(a)</i>	Corrected/ Discounted Tender Price (in specified currency)  <i>(b)</i>	Payment Composition <sup>1</sup>			Exchange Rate Used by Tenderer  <i>(f)</i>	Amounts in Currency of Payment  <i>(g) = (e) x (f)</i>	Exchange Rate for Evaluation  <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 Prices  <i>(i) = (g) x (h)</i>	Total <sup>1</sup>  <i>(j)</i>

**Note:**

<sup>1</sup> Column *j* is the sum of tender prices in column *i* for each tenderer.

**Table 11. Additions, Adjustments, and Priced Deviations**

Specify Evaluation Currency: \_\_\_\_\_

Tenderer <i>(a)</i>	Corrected/Discounted Tender Price <sup>1</sup> <i>(b)</i>	Additions <sup>1</sup> <i>(c)</i>	Adjustments <sup>1</sup> <i>(d)</i>	Priced Deviations <sup>1</sup> <i>(e)</i>	Total Evaluated Price <i>(f) = (b) + (c) + (d) + (e)</i>

<sup>1</sup> Each insertion in columns *c*, *d*, or *e* should be footnoted and explained in adequate detail, accompanied by calculations. Refer to para 6 of Annex I

**Table 12. Comparison of Breakdown of Tender Prices with Employer's Estimate**

Specify Currency: \_\_\_\_\_

		Employer's Estimate	Tenderer 1	Tenderer 2	Tenderer 3	Major Deviations Noted <sup>1</sup>
No.	Description					
A						
B						
C						
D						
E						
F						
G						
H						
	Total Cost of Works					

**Note:** <sup>1</sup> For the tenderer recommended for award.

Refer to example in Annex 5.

**Table 13. Log of Clarifications Requested and Responses Received**

Tenderer	Date of Clarification Request	Date of Response	Brief Description of Issue

**Table 14. Postqualification**

Name of Tenderer \_\_\_\_\_

Qualification Criterion	Reference in Tender Document	Pass/Fail	Comments

a) Refer to Annex I, para. 7 (b) herein.

b) If a prequalification phase has been conducted, the text in the above table should be replaced with a statement confirming that; a) the tenderer recommended for contract award continues to comply with the qualification criteria, and, b) the information previously provided at the prequalification stage remains valid and correct.

**Table 15. Summary of Proposed Contract Award**

<p>1. Lowest evaluated responsive tenderer (proposed for contract award).                  (a) name                  (b) address</p>	<hr/> <hr/>
<p>2. If tender from joint venture, list all partners, nationalities, and estimated shares of contract.</p>	<hr/> <hr/>
<p>3. Contract currency and value at award.</p>	<hr/>
<p>4. Estimated date (month, year) of contract signing.</p>	<hr/>
<p>5. Time for Completion Period (months)</p>	<hr/>
<p>6. Estimated date (month, year) of completion of Works.</p>	<hr/>

**Table 16. Log of Complaints and Appeals Received**

Tenderer/Complainant	Date Received	Date Submitted to Bank	Brief Description of Issue

**Attachment 1 – Copy of Declaration of Impartiality and Confidentiality**

*(Insert copy)*

*[For single-stage tenders and the final stage of multi-stage tenders]*

## **Attachment 2 – Final Draft Letters to the Unsuccessful Tenderers**

*(Insert respective Final Draft Letters to the Unsuccessful Tenderers. Use the following sample as a drafting aid)*

### **Sample letter to an unsuccessful tenderer**

Project ref: \_\_\_\_\_  
 Tender ref: \_\_\_\_\_  
 Name of Tender: \_\_\_\_\_  
 Lot ref (if applicable): \_\_\_\_\_  
 Title of contract awarded:

*[insert respective tenderer's name]*

Dear \_\_\_\_\_

I refer to the tender that you have submitted for the above referenced project.

We regret to inform you that, as a result of the tender evaluation process, your tender has not been selected for award of this contract.

The above contract has been awarded to the lowest evaluated substantially responsive tenderer, namely *[specify name of successful tenderer]* for the contract amount of *[specify currency and contract amount]* and a duration of *[specify the duration of the contract in months]* months.

### **Names of tenderers and tender prices**

<b>No</b>	<b>Name of Tenderer</b>	<b>Currency</b>	<b>Tender Price as read out at tender opening</b>	<b>Evaluated Tender Price</b>
1.				
2.				
...				
...				

**Names of tenderers whose tenders were rejected**

<b>No</b>	<b>Name of Tenderer</b>
1.	
2.	
...	
...	

*[Please choose one of the following options, as appropriate, to explain why this particular tenderer has been unsuccessful:]*

*[Option 1 for tenders that are substantially responsive, but did not offer the lowest evaluated price. Explain particularities of the calculation of the evaluated tender price (e.g. difference between read out and evaluated tender price):]*

.....

*[Option 2 for tenders that were rejected for not being eligible, not substantially responsive or not qualified. Provide the detailed reasons for the rejection of the tender:]*

.....

Please also note that you may request in writing a debriefing by ourselves to further ascertain the grounds on which your tender was not selected.

**Yours Sincerely,**

## Annex I. Evaluation Guide

### 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 Loan Agreement, and the notification requirements detailed in para 3.7 of the Rules.

### 2. Receipt of Tenders and Tender Opening<sup>1</sup>

#### (a) Receipt of Tenders

The client must make adequate provision for receiving tenders as follows:

- i. Specify a clear address for submission of tenders including a contact name and room number;
- ii. Tenderers submitting tenders prior to the submission deadline must be issued with a numbered receipt recording the date and time the tender was received and the receipt number must be written on the outside of the tender envelope; and,
- iii. Tenders received prior to the submission deadline must be locked in a secure place, preferably in a safe with access only to specified individuals.

#### (b) Tender Opening

Adequate procedures should be in place to allow the tenderers' representatives who wish to attend the opening of tenders at the allotted place and time.

The opening of tenders should take place immediately after the deadline for submission stated in the ITT and the following must be addressed:

- i. An accessible room of suitable size, specified in the tender documents, must be reserved for the opening of tenders;

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<sup>1</sup> In accordance with para 3.29 of the Rules, a copy of the Minutes of the Tender Opening should be sent promptly to the Bank after tender opening and therefore does not usually accompany the tender evaluation report.

- ii. Copies of all receipts issued must be brought to the tender opening;
- iii. All tenderer's representatives present at the opening must sign a register of attendance;
- iv. All tenders received should be placed on a table and the number of tender envelopes must be consistent with the number of receipts issued. If there is a discrepancy no tenders must be opened until the discrepancy is resolved and all tenders received are in the room;
- v. The envelopes received should be grouped into the following categories:
  - tenders received prior to the submission deadline
  - modifications received prior to the deadline
  - withdrawals received prior to the deadline
  - tenders, modifications and withdrawals received after the deadline;
- vi. A checklist of the items to be inspected and recorded for each tender as it is opened (See Annex II – Tender Opening Checklist);
- vii. Tenders, modifications and withdrawals received after the deadline must not be opened. The outer envelope of these late tenders and modifications should be opened and the names of the tenderers submitting late tenders or modifications read out and recorded. The inner envelopes of all late submissions must be returned unopened to the respective tenderers;
- viii. Withdrawal notices received prior to the deadline should be opened next and read out and recorded. Tenders subject to a withdrawal notice must not be opened and must be returned unopened to the respective tenderers;
- ix. All tenders and modifications received prior to the deadline must be opened next;
- x. For each tender opened the items on the checklist should be checked and read out aloud. The tenderers' names, tender withdrawal or modification, tender price, discounts, alternatives, the presence or absence of

requisite tender security and such other details as the client, at its discretion, may consider appropriate, should be announced and recorded at the opening. It is important for all discounts and alternatives to be read out. Tender prices and discounts which are not read out at tender openings cannot be considered in the subsequent evaluation;

- xii. The client must prepare minutes of the tender opening.
- xiii. The minutes of tender opening should be completed as soon as possible after the tender opening and a copy must be sent to all tenderers which submitted tenders. If the contract is subject to the Bank's prior review, a copy of the minutes must be sent to the Bank as soon as they are completed;
- xiv. Immediately after the opening of tenders, all tenders which were opened must be stored safely and confidentially and be made available only to those directly involved in the evaluation process.

A summary of the read-out tender prices should be provided in Table 4.

### 3. Tender Validity

The duration of the validity of each tender should be the one specified in the ITT and should be confirmed in the signed (form of) tender.

The tender evaluation, review and award decision should be completed so that the award can be made within the original period of tender validity.

In exceptional cases, it may transpire that the evaluation and award decision is unavoidably delayed. In such cases it would be necessary to seek an extension of the validity of tenders as follows:

- i. The request to extend the validity of tenders must be sent to all tenderers who submitted tenders within the submission deadline and opened at the tender opening;

- ii. The request for extension must specify a reasonable period for the extension which would allow adequate time for completing the evaluation and arriving at an award decision and obtaining the Bank's "no objection";
- iii. A tenderer is free to turn down the request and not extend the validity of its tender without losing its tender security;
- iv. The Bank must be informed of any such requests for extension of validity. If more than one such extension is proposed, the Bank should be consulted well in advance of the second or any subsequent requests for extension;
- v. Tenderers extending the validity of their tenders must arrange to extend the period of their tender security for the relevant period and submit the revised tender security with their notice of extension of validity;
- vi. In fixed price contracts the adjustment factor specified in the tender documents for such extension of tender validity must be applied;
- vii. The request for extension must clearly specify:
  - the period of extension requested;
  - the deadline for responses to the request for extension (a minimum of fourteen (14) days should be allowed, but for large contracts a longer period, say twenty-one (21) days, would be more appropriate);
  - in the case of a fixed price contract, the adjustment for the period of extension should be spelled out;
  - the request should be sent to the tenderer's official address with a request for a confirmation of receipt by return;
  - tenderers agreeing to such an extension cannot be required or permitted to otherwise change the price, scope or any other aspect of their tender as a condition of the extension.

#### **4. 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. The Bank recommends appointment by the client of an evaluation committee, consisting of a minimum of three qualified members who should work in a secure office where all tender documents can be kept. There may be a considerable advantage if the same members participated in the preparation of the tender documents.

On occasion, the client may request clarifications of tenderers concerning ambiguities or inconsistencies in the tender. As required in the ITTs, such requests shall be in writing, and no change in the price or scope of the originally offered works or services shall be sought or accepted, except for the correction of arithmetic error. The responses from tenderers shall also be in writing. With the exception of the first stage of a two-stage tender evaluation process, no circumstances shall justify meetings or conversations between the client (or its consultants) and tenderers during the tender evaluation process. All clarification requests and responses should be listed in Table 13.

Tenderers frequently attempt to contact the client during tender evaluation, directly or indirectly, to query progress of evaluation, to offer unsolicited clarifications, or to provide criticisms of their competition. Receipt of such information should be acknowledged as to receipt only.<sup>2</sup> Clients 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.

#### **5. 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 which contain material deviations to the tender documents and therefore are not to be considered further. The following checks should be applied:

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<sup>2</sup> On occasion, tenderers approach the Bank with information. Bank policy is to acknowledge the correspondence and pass it on to the Client for its consideration.

- (a) Verification: Attention should be directed toward 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. 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: Tenderers must demonstrate that they are eligible to participate in the tender in accordance with the specific eligibility requirements detailed in the tender documents (see the ITT for details). If prequalification has taken place, only tenders from prequalified tenderers can be considered.
- (c) Tender Security: The tender document may require submission of a tender security. If so, the tender security must conform to the requirements of the ITT, 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 tender document. The security for a tender submitted by a joint venture should be in the name of, or on behalf of, all of the partners of the joint venture.
- (d) Completeness of Tender: It should be noted that ITT 29 - Nonmaterial Nonconformities (in the June 2017 edition of the Bank's STD for Works) includes a provision which states that provided that a tender is substantially responsive, the Employer may request the tenderer to submit any necessary missing information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the tender. Any such requests shall be made in accordance with the procedure contained in ITT 27 – Clarification of Tenders. Requested information or documentation on such nonconformities shall not be related to any aspect of the price of the tender. Unless the tender documents have specifically allowed partial tenders, any tenders not offering all of the required items should ordinarily be considered nonresponsive.

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 initialed by 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 analyzed as per Section 6 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.

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 IV.

## **6. Detailed Examination of Tenders**

Only those tenders that have successfully passed the preliminary examination and which have been accepted for detailed evaluation need to be examined in this phase.

The detailed evaluation of a tender involves first checking that the commercial conditions, technical characteristics and functional performance of the tender are in accordance with the tender requirements.

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 fulfill the purposes for which the tender is requested, or would prevent a fair comparison with tenders that are properly compliant with the tender 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;

- (v) Refusing to bear important responsibilities and liabilities allocated in the tender 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 ITT as requiring rejection of the tender (such as, the participation in more than one 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.

Details of any deviations, reservations or omissions identified in the tender during the detailed evaluation shall be highlighted in Table 6 – Detailed Examination of Tenders. In the event that any deviation, reservation or omission is determined to be material in nature, as defined in the ITT, a supporting justification for this determination must be included in Table 6. Clients may find it useful to include additional tables for itemization of responsiveness to a list of technical or commercial specifications.

The next step is to apply the evaluation criteria specified in the tender documents and adjust each tender as appropriate using the evaluation criteria. Only the criteria specified in the tender documents can be applied. No new criteria may be introduced at evaluation and all specified criteria must be applied. Specified criteria cannot be waived during evaluation.

- (a) Corrections for Errors: The methodology for correction of computational errors is described in the ITT. The read-out tender prices and their corrections should be noted in Table 7, column *d*. 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 client 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 7, column *e* to allow for a proper comparison of tenders in subsequent steps.

- (c) Modifications and Discounts: In accordance with the ITT, 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 ITT 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 discounts (or alternatively, increases) should be shown as in Table 7 (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 ITT. The exchange rates to be used in the calculations are to be listed in Table 8.

If the currency of the tender and the currency for payment are a single currency, the text in Table 8 – Exchange Rates, Table 9 – Currency Conversion (Multiple Currencies) and Table 10 – Currency Conversion (Single Currencies) shall be deleted and replaced with the words “Not Applicable”.

- (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 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 11, column *c*.

- (f) Adjustments: The ITT 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 ITT 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 tender documents, unless specifically provided for in the ITT. The value of adjustments will be expressed in terms of cost, for all works contracts, and should be shown in Table 11, column *d* and expressed in the evaluation currency.
- (g) Priced Deviations: 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 a tenderer which takes exception to a requirement in the tender documents should be treated as a deviation.
  - (ii) If a tender requires a faster payment stream than specified in the tender 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 ITT foresees the eventuality and specifies a rate.
  - (iii) If a tender provides for a delivery or completion that is beyond the date specified in the tender documents but that is nonetheless technically acceptable to the client, the time advantage given should be assessed a penalty specified in the ITT or, if one is not provided, based on the rate of liquidated damages specified in the tender documents.

The deviations should be priced in the evaluation currency in Table 11, column *e*.

(h) Unbalanced, Front Loaded or Abnormally Low Tender Prices. For works contracts, following a detailed price analysis and clarification process, under predefined circumstances, the ITT permits the Employer to require an increase in the level of performance security to be provided by the Contractor. To assist in the identification of unbalanced, front loaded or an abnormally low tender price, a comparison of each individual tenderer's prices for the key components of works shall be provided in Table 12. In the event that the Employer considers that there are sufficient grounds upon which to require an increase in the level of performance security, full details of the justification and proposed level of increase shall be provided in an Annex to Table 12. An example is shown in Annex V.

Where there are a large number of tenders to be evaluated (over six) and the spread of tender prices is relatively wide, it is not necessary, in the first instance, to evaluate all tenders in detail. One can usually determine, from the specified evaluation criteria, the range of tender prices relative to the lowest tender price which stand a reliable chance of being the lowest evaluated tender. In such cases it is normally acceptable that, in the first instance, only those tenders within this range should be subjected to a detailed evaluation. If the lowest priced tender is rejected during evaluation, the range must be re-determined and all tenders in the revised range must be subject to a detailed evaluation.

## 7. Determination of Award

In the comparison of tenders for works, the corrected and discounted tender prices, together with adjustments for omissions, deviations, and specified evaluation factors, have been noted in Table 11. The tenderer with the lowest total is the lowest evaluated cost tenderer at this stage, subject to:

- Application of any discounts, contingent on the simultaneous award of multiple contracts or lots; and
  - Postqualification evaluation, or, if prequalification has occurred, confirmation of prequalification information.
- (a) 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. The sizes of cross-discounts offered by each tenderer may vary with the potential number of

contracts awarded. The ITT may also limit the number or total value of awards to a tenderer on the basis of its financial and technical capacity.<sup>3</sup> Thus, a tenderer offering the lowest evaluated tender on a particular contract may be denied award because of such a restriction. The client 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.

- (b) Qualification: If prequalification was conducted, the tenderer whose tender is the lowest evaluated should receive the award, unless the tenderer in question no longer meets the qualification requirements. If provided for in the tender documents, an assessment of tenderers current commitments should be taken into account to ensure that the tenderer would not be overwhelmed by the award of additional contracts.

Where prequalification has not occurred, the prospective awardee should be subjected to postqualification, the procedures for which are described in the ITT. Table 14 should be completed to demonstrate that the tenderer recommended for award meets the qualification criteria contained in the tender documents (or, in the event of prequalification, to demonstrate that the tenderer continues to meet the qualification criteria). It should be noted that ITT 33 – Qualification of the Tenderer (in the June 2017 edition of the Bank’s STD for Works) includes a provision which states that the Employer reserves the right to waive any minor deviations from the qualifying criteria that do not materially affect the capability of the Tenderer to perform the contract. Full details of any such determination made in the tender evaluation process must be clearly documented in Table 14 - Postqualification.

If the lowest evaluated tenderer fails postqualification, its tender should be rejected, and the next ranked tenderer should then be subject to postqualification examination. If successful, this tenderer should receive the award. If not, the process continues. The rejection of a tender for reasons of

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<sup>3</sup> This restriction may originate with prequalification.

qualification requires substantial justification, which should be clearly documented in attachments to the report.

- (c) Alternative Tenders: The ITT may request or allow the client to accept alternative tenders under the stipulation that only the alternative submitted by the lowest evaluated tenderer and conforming to the tender documents will be considered. For works, the ITTs may allow alternative technical solutions and/or alternative times for completion.

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

- (d) 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 ITT for corrections, any discounts (including cross-discounts), and acceptance by the client of alternative offers from the lowest evaluated tenderer.

- (e) Report Submission

- (i) *Prior Review*: In accordance with the loan agreement, the client must submit the completed tender evaluation report containing the required summary to the Bank as soon as possible after tender opening, preferably no later than four (4) weeks prior to the expiration of the tender validity period.

Clients are encouraged to request assistance as needed from the Bank in explaining the evaluation procedures. However, the Bank will not participate in the evaluation itself.

- (ii) *Post Review*: For contracts not subject to prior review, in accordance with para 3.39 of the Rules, the client shall furnish to the Bank, prior to the submission of a withdrawal application in respect of such contract, a conformed copy of such contract, together with a tender evaluation report for its review and no objection.
- (f) Review by the Bank: Upon receipt by the Bank, all contracts subject to prior review will be reviewed. Clients may be requested to provide additional information and justification for the recommendations. The Bank will not contact

tenderers. However, it may request the client to do so for necessary clarifications. When the Bank is satisfied with the evaluation of tenders and recommendations of award, a “no-objection” written communication will be issued by the Bank official designated for such correspondence.

For contracts subject to post review, any doubts about the justification for award should be raised with the Bank prior to award signing. Clients should ensure that all correspondence received from tenderers concerning evaluation has been taken into account. The Bank does not finance contracts that have not been procured in accordance with the loan agreement.

- (g) Award of Contract: Following receipt of the Bank’s no-objection to the tender evaluation report, a notification of award (letter of acceptance) in the form and detail specified in the tender documents must be transmitted immediately to the successful tenderer. No contract negotiations may be held with the successful tenderer with the intention of obtaining a reduction in price or a change in the scope of the contract, except in exceptional circumstances and only after the Bank has been consulted and has agreed to such negotiations. On the same date as the transmission of the notification of award, the unsuccessful tenderers must be notified in the form and detail specified in the tender documents (a draft notification letter to unsuccessful tenderers is to be included in the tender evaluation report).

Tender securities of unsuccessful tenderers should be returned promptly after award has been made in accordance with the relevant provisions of the ITT. However, if contract effectiveness is contingent on the receipt of a performance security or other condition, the client may consider seeking an appropriate extension of time for the tender validity and the accompanying tender security of the next two lowest tenderers.

Upon confirmation by the client that the award has been made, the Bank is authorized to publish a description of the contract, the name and nationality of the contract awardee, the contract price and any other information stated in the ITT. In accordance with Annex 1: Guidance to Tenderers of the Rules, unsuccessful tenderers are permitted to seek a debriefing with the client, and, additionally, with the Bank. In anticipation of this and/or any post reviews by the Bank, the client should

ensure that tender documents and evaluations are securely stored.

## **8. Cancellation of the Tender**

Clients should only reject all tenders and cancel a tender if:

- There is evidence of collusion;
- There has been unsatisfactory competition;
- Tender prices substantially exceed the cost estimates or available funds; or,
- The specifications, or other conditions, inadvertently fail to reflect the client's requirements, reduced competition or generated substantially non-responsive tenders or very high prices.

Before cancelling a tender, the client must obtain the Bank's concurrence to the cancellation and clearance of the procedures to follow to procure the contract.

## **9. Tenderer's Appeals and Complaints**

The client is responsible for addressing and responding to all complaints relating to the procurement process or outcome of a tender with the exception of those submitted to the Bank directly. Complaints submitted directly to the Bank will be handled in accordance with the procedures detailed on the Bank's website (see: <http://www.ebrd.com/pages/workingwithus/procurement/project/complaints.shtml> for further details).

When a complaint regarding any aspect of a tender procedure is received by the Bank, the Bank will immediately send a copy to the client. The Bank will ensure that the complaint is fully reviewed to its satisfaction and, pending the outcome of such review, no decisions should be made or approvals given which could prejudice the outcome of the review.

All complaints or appeals received by the client, prior to the completion of the evaluation, must be detailed and attached to the evaluation report in Table 16 - Log of Complaints and Appeals Received. The evaluation committee must ensure that the evaluation report addresses all such complaints and appeals in a satisfactory manner. Failure to do this will lead to the Bank seeking clarification on the complaint or appeal, and delay the Bank's review process.

In exceptional cases, the Bank may require an independent review or audit of the tender and/or evaluation process, in order to address tenderers' complaints and appeals which are of a serious nature, in the most transparent and fair manner.

## Annex II. Tender Opening Checklist

(To be filled out for each tender as it is read out)

Contract Reference: \_\_\_\_\_

Tender Opening Date: \_\_\_\_\_ Time: \_\_\_\_\_

Name of Tenderer: \_\_\_\_\_

- (a) Is outer envelope of tender sealed?
- (b) Is tender form completed and signed?
- (c) Expiration date of tender:
- (d) Is documentary authority for signing enclosed?
- (e) Amount of tender security (if required): \_\_\_\_\_ (state currency)
- (f) Describe any "Substitution," "Withdrawal," or "Modification" submitted
- (g) Describe any alternative tender made:
- (h) Describe any discounts or modifications offered:
- (i) Additional comments:
- (j) Name of tenderer or representative present:
- (k) Total tender price: \_\_\_\_\_ (list currencies and amounts or percentages)<sup>4</sup>

Signature of responsible official: \_\_\_\_\_ Date: \_\_\_\_\_

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<sup>4</sup> If tender is for a package of contracts, the price for each lot or item should be read out.

### **Annex III. Eligibility for the Provision of Goods, Works, and Services in Bank-Financed Procurement**

The Bank permits firms and individuals from all countries to offer Goods, Works and Services for Bank-financed projects regardless of whether the country is a member of the Bank.

Consistent with international law, the proceeds of the Bank's loans, equity investment or guarantees shall not be used for payment to persons or entities or for any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. Persons or entities, or suppliers offering goods and services, covered by such prohibition shall therefore not be eligible for the award of Bank-financed contracts.

### Annex IV. Example of Preliminary Examination

Tenderer	Verification	Eligibility	Tender Security	Completeness of Tender	Accepted for Detailed Examination	Comments
Tenderer A	Yes	No <sup>1</sup>	Yes	Yes	No	See below
Tenderer B	No <sup>2</sup>	Yes	Yes	Yes	No	See below
Tenderer C	Yes	Yes	Yes	Yes	Yes	
Tenderer D	Yes	Yes	Yes	Yes	Yes	
Tenderer E	Yes	Yes	No <sup>3</sup>	Yes	No	See below
Tenderer F	Yes	Yes	Yes	Yes	Yes	
Tenderer G	Yes	Yes	Yes	No <sup>4</sup>	No	See below

<sup>1</sup> Tenderer is an affiliate of the Employer and has a significant degree of influence and control over the Employer.

<sup>2</sup> The Tender Form is not signed.

<sup>3</sup> The tenderer has not submitted a tender security.

<sup>4</sup> The tenderer has explicitly omitted critical items from the scope of supply.

## Annex V. Example Comparison of Breakdown of Tender Prices with Employer's Estimate

No.	Description	Employer's Estimate	Tenderer 1	Tenderer 2	Tenderer 3	Major Deviations Noted
A	General Items	500,000	450,000	480,000	470,000	
B	Preliminary Works	2,000,000	220,000	1,800,000	1,850,000	
C	Earthworks	4,000,000	10,500,000	5,000,000	4,300,000	{ <sup>1</sup> See note }
D	Drainage	2,500,000	1,000,000	2,000,000	3,000,000	
E	Roads and Paving Works	8,000,000	4,000,000	7,000,000	9,000,000	
F	Traffic Signs, Road Markings and Traffic Furniture	1,000,000	750,000	1,000,000	100,000	
G	Dayworks	500,000	300,000	400,000	600,000	
H	Provisional Sums	200,000	300,000	300,000	200,000	
	<b>Total Cost of Works</b>	<b>18,700,000</b>	<b>17,520,000</b>	<b>17,980,000</b>	<b>19,520,000</b>	

**Note:**

<sup>1</sup> In this example, it should be recorded that the tender price of the lowest priced tenderer for this item works significantly exceeds the Employer's cost estimate and the tenderer price of the other tenderers. This example indicates the possibility of a front-loaded tender that may require an increase in the level of performance security as provided for in ITT 31.2 of the STD for Works and requires further investigation/clarification.