

**Standard Operating
Procedures (SoP)**

**Guidelines for Tender
Evaluation
Committees (TEC)**

Version 1.1

Department of Contracts

(April 2019)

Tender Evaluation Committee (TEC) means boards or committees appointed by Contracting Authorities (CAs) with the purpose of adjudicating submissions of offers and for making recommendations thereon.

1. Appointment of Evaluation Committee at Publication Stage

1.1 A Tender Evaluation Committee is to be set up prior to the publication of a tender.

The following procedure is to be adopted for the appointment of the Evaluation Committees:

- (i) The Evaluation Committee must be appointed by contracting authorities:
 - (a) through the Head of Department/Contracting Authority, for Departmental Tenders;
 - (b) through the Ministerial Procurement Unit for tenders having an estimated budget of €10,000 Exc. VAT but not exceeding €250,000 Exc. VAT and where the Contracting Authority is listed under Schedule 16;
 - (c) through the Director General (Contracts) for above threshold tenders;
- (ii) A schedule for the committee meetings is to be drawn up immediately after the approval of the Evaluation Committee. This shall ensure that the Chairperson, the members and the secretary are allowed ample time to familiarize themselves with the tender in question and to follow up any requests for clarifications during the submissions period.
- (iii) If any member of the Evaluation Committee cannot commit to the schedule set, the Head of the Contracting Authority/Ministerial Procurement Unit/Director General (Contracts) should be informed beforehand within two working days from notification. The Head of the Contracting Authority/Ministerial Procurement Unit/Director General (Contracts) is to consider whether such reasons justify the inability of the member to commit to the schedule. If the case is justified, the Head of the Contracting Authority is to immediately appoint another member as per point 1 above.

1.2 Contracting Authorities must nominate the members of the TEC (minimum of five persons) for the approval, as in 1.1, prior to the actual publication of the CfT.

1.3 Unless otherwise approved by the Director of Contracts, a TEC shall consist of a Chairperson, a Secretary and a minimum of three (3) or any odd number of evaluators.

1.4 The evaluation of tenders must be carried out by a suitably competent evaluation panel and in accordance with the Public Procurement Regulations and EU principles of equal treatment, non-discrimination, and transparency.

1.5 The Secretary, who is expected to draft the report, shall be conversant with the procurement procedures.

1.6 All members are required to confirm their acceptance to be members of the Tender Evaluation Committee.

1.7 A curriculum vitae, as per the one in Annex I, should be prepared by each member of the Tender Evaluation Committee, and retained for record purposes. This will serve to ascertain that the members of the Evaluation Committee have the relevant qualifications, experience and technical knowledge to sit on such committees. Ideally, as a general rule, Evaluation Committee nominees are employees within the Public Service/Sector. Nevertheless, in exceptional circumstances and upon the approval of the Director General Contracts or his delegate, nominees may also be non-public employees who have extensive experience in public procurement. In the latter case it must be ensured that the nominee does not have any conflict of interest in the tender to be adjudicated.

1.8 The Department of Contracts has also introduced authorised 'pool of evaluators' – which mainly consist of a group of selected officials who are competent, experienced and conversant with procurement processes and who uphold the Public Procurement Regulations and EU principles of equal treatment, non-discrimination, and transparency. These officials shall be chosen from different spheres within the public service/sector and shall specifically be appointed as evaluators on different evaluation boards.

1.9 The Chairperson and Secretary do not have voting rights, their main task is to guide and assist the members of the TEC.

1.10 During the publication stage, it is recommended that members of the Tender Evaluation Committee thoroughly read the tender so that they are fully conversant with all the requirements, specifications and conditions of the tender.

1.11 It should be noted that any addenda, corrigenda, minutes of site meetings, minutes of clarification meetings and other clarifications issued during the publication stages shall form an integral part of the original tender document.

1.12 In the event that the subject matter under evaluation is beyond the knowledge of the appointed TEC, the CA may engage the services of a competent consultant / technical advisor.

1.13 The appointed consultant / technical advisor shall draw up a technical report; **such report shall not form part of the evaluation report.** However, the CA is responsible to keep the report in main file for auditing purposes.

1.14 The appointed consultant / technical advisor shall have no voting powers.

2. Evaluation Stage and Time-Limit for Evaluation

2.1 The workings of the Evaluation Committee shall be as follows:

- (i) The Evaluation Committee is bound to adhere to the schedule set at publication stage and complete the evaluation process within four (4) calendar weeks from the date of unlocking of tenders. This applies to all procurement estimated above €10,000 (exclusive of VAT).
- (ii) The whole evaluation process must be finalized within the 4-week timeframe, including clarifications, rectifications or requests for samples.
- (iii) Should the Evaluation Committee fail to meet the 4-week deadline, the Committee will be summoned and will be required to explain the delay.
 - (a) For tenders falling under regulation 9(1)(a) the Committee will be summoned by the Head of the CA;
 - (b) For tenders administered by the MPU, the Committee will be summoned by the Head of the MPU;
 - (c) For tenders falling under regulation 9(1)(b) the Committee will be summoned by the General Contracts Committee;
- (iv) The Head of the Contracting Authority/ Head of the MPU/GCC may consider endorsing a one-time extension based on the justification presented by the Evaluation Committee during the summoning process.
- (v) Prior to presenting to the DCC/GCC, the justification for extension of the 4-week timeframe may be approved:-
 - (a) for Departmental Tenders, only by the Head of the Contracting Authority through the respective Permanent Secretary or his delegate;
 - (b) for MPU Tenders, only by the Head of the MPU through the respective Permanent Secretary or his delegate;
 - (c) for above threshold procurement, by the Director General (Contracts) or his delegate.

Exceptions may be considered for instance in relation to large-scale projects for which the Evaluation Committee can request an extension to the 4-week timeframe by providing the deadline for the submission of the evaluation report.

2.2 During the first meeting of the Evaluation Committee, the Chairperson shall call out the Tenderer ID

of all those who submitted a tender.

2.3 The members of the Evaluation Committee are required to confirm whether they have any potential conflict of interest through direct or indirect relationship with any of the tenderers.

2.4 Each TEC member, including any appointed consultant/technical expert, must sign a Declaration of Impartiality and Confidentiality, as per document attached at Annex II, thus declaring that s/he has no personal interest or connections with any of the participating economic operators and that s/he understands and can perform within the ground rules and procedures.

2.5 The Secretary to the Board shall retain the Declaration of Impartiality and Confidentiality documents duly endorsed by all members, and will eventually annex these documents to the Final Evaluation Report.

2.6 The Chairperson will then proceed to explain briefly the composition of the tender and the method of evaluation to be adopted. Such details are found in the tender itself. The Chairperson may proceed to explain such matters as to whether the tender is based on any other procurement procedure other than the open procedure.

2.7 The Chairperson and the Secretary are there to guide and assist the evaluators. The chairperson will, at the end of the process, need to approve or otherwise the Evaluation through the ePPS.

2.8 The Secretary may maintain minutes of the findings and discussions held during the meetings of the Evaluation Committee. Such minutes may eventually be annexed to the final Evaluation Report prepared by the Tender Evaluation Committee.

2.9 Contact with participating bidders MUST be strictly through means allowed by the General Rules Governing Tendering and the Public Procurement Regulations.

2.10 Any attempt by any candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors, or influence the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties;

2.11 The Tender Evaluation Committee must ensure that:

- (i) In the case of certain service tenders, the bidder has duly filled and attached the minimum hourly workers' costs;
- (ii) No participating economic operator or sub-contractor is subject to any of the exclusion or blacklisting grounds;

2.12 During adjudication, the TEC may deem necessary to request a number of clarifications/rectifications.

2.13 Replies to clarifications/rectifications must be submitted within the time frames stipulated in the published tender document. Failure to comply will result in the tender offer not being considered any further.

2.14 The TEC must provide justifications, substantiating its decisions and final recommendations.

2.15 The reason/s for declaring a bid as non-compliant must be clearly documented and any supporting documents must be annexed in the evaluation report.

2.16 Any communication concluded during the adjudication stages, with economic operators must be fully documented and annexed to the Evaluation Report.

2.17 Reasons deeming offers as non compliant must refer to the specific clauses as published in the tender document.

2.18 Adjudication of offers must be carried out by the each evaluator independently.

Evaluation report templates, can be found through the following links under the Resources Section: www.contracts.gov.mt and www.etenders.gov.mt/Resources.

2.19 The Evaluation Process shall proceed in the following three (3) stages:

- Administrative Evaluation
- Technical Evaluation
- Financial Evaluation

3. Tender Guarantee (Bid Bond)

When a Tender Guarantee (Bid Bond) is requested, bidders are to submit a scanned copy (of the Tender Guarantee (Bid Bond)) through the ePPS as indicated in the Tender Response Format, followed by the submission by post or by hand to the Department of Contracts of the original copy within the stipulated time frame mentioned in the procurement documents.

The DoC will provide the Evaluation Committees' Chairperson with a scanned copy of all time-stamped tender guarantees received.

Evaluation Committees should not just take into account the submission of the scanned copy of the Tender Guarantee (Bid Bond) required, but also carry out the necessary verifications on the original copy. The Evaluation Report should also make reference to this verification.

If a Call for Tenders (CfT) is not divided into lots, then a Tender Guarantee (Bid Bond) is to be requested only for those CfTs whose estimated value is equal to, or more than, €2,000,000 exclusive of VAT.

When a CfT is divided into lots, no Bid Bond is to be requested for individual lots having an estimated value lower than €2,000,000 excluding VAT.

If the CfT allows submission for one lot, any lot, or all of the lots, the tenderer may add up the values of the individual lots (whose stand-alone value is \geq €2,000,000) that shall be tendered for and submit one whole Bid Bond covering the total amount.

The Tender Guarantee (Bid Bond) must have a validity period of 90 days, commencing upon the deadline for submission of tenders.

Tender Guarantees are to be drawn up in the name of the Director General Contracts.

Tenderers may be requested to rectify the submitted Bid Bond in line with the instructions in the procurement documents.

3.1 Administrative Evaluation

Stage 1:

The Evaluation Committee shall refer to the tender specifications included in the tender under review so as to ensure that the documents required have been included in the forms and documents submitted through the tender structure (.xml – tender response format). Although not exhaustive, the administrative documents required shall normally include all those requirements included under Article 7 of the Instructions to Tenderer's (Section 1) of the tender document; namely, the Eligibility Criteria, Exclusion (including Blacklisting) Criteria and Selection Criteria. For tenders above the departmental threshold (currently Euro144,000 net of VAT), these criteria are all encompassed in the ESPD (European Single Procurement Document).

The Evaluation Committee must check and ensure that all documentation requested has been submitted and duly filled in.

Stage 2:

The Evaluation Committee is to obtain the prior approval (including specific wording) of the Director General (Contracts)/Departmental Contracts Committee/Ministerial Procurement Unit (MPU), as the case may be, to request tenderers to submit information (rectification) that was not submitted with the documents (under Note 2) within a specified time frame. The Committee may also seek clarifications from tenderers where the information submitted is deemed as not sufficiently explicit and clear.

Where clarifications/rectifications are required, communication with the tenderer/s is to be done in

writing by the Chairperson or the Secretary of the Committee, through the ePPS, after obtaining the required approvals. It is to be noted that any requests put forward to tenderers will be carried out without any commitment whatsoever on part of the Government of Malta.

3.2 Technical Evaluation

Stage 1:

Following completion of the Administrative Evaluation, the Committee then proceeds to evaluate the technical offers submitted by tenderers which were determined as administratively compliant. Tenders considered as administratively non-compliant are not to be considered further.

In such scenarios the TEC must give a "0" score on the ePPS vis a vis the technical criteria. Under normal circumstances a "0" scoring indicates non compliance of offer, however, given that in such cases the technical part was disregarded the TEC must give clear reasoning thus justifying the "0" scoring.

The Evaluation Committee shall refer to the tender specifications included in the tender under review so as to ensure that the documents and details required have been included in the forms and documents submitted by each tenderer, particularly the 'Tenderer's technical offer/questionnaire' (for Supply and Works tenders) and the 'Organisation and Methodology' (for Service tenders).

All documentation submitted must be analysed in detail. It should be noted that any documents, specifications and/or other forms of submission that were required as a mandatory requirement but not submitted will disqualify the tenderer and further evaluation cannot take place. The Committee cannot request tenderers for any information that was not submitted with the documents. The Committee can only seek clarifications from tenderers where the information submitted is not sufficiently explicit and clear (as per Note 3 in the tender document). Rectifications, Note 2A, are permissible in the technical evaluation stage only vis-a-vis the Key Experts, whereas Literature is subject to Note 2B.

Stage 2:

Where clarifications are required, communication with the tenderer(s) is to be done in writing, by the Chairperson or the Secretary of the Committee through the ePPS, after acquiring the necessary authorisation.

In the event that the tender is issued by the Department of Contracts, the Committee must first seek approval from the Director General (Contracts) before submitting clarifications to the tenderer(s).

For Departmental tenders, approval must be acceded through the DCC {via the Ministerial Procurement Unit – MPU (if applicable)}.

When requesting clarifications, tenderer(s) are to be given sufficient time for replies and a specified time and date shall be given for receipt of replies. It is to be noted that any requests put forward to tenderers will be carried out without any commitment whatsoever on part of the Government of Malta.

Evaluation Committees may raise requests for the submission of samples.

It should be noted that tenderers who fail one or more of the technical requirements shall be rejected and hence their tender need not be considered further.

For tenders issued under the Best Price Quality Ratio (BPQR) as award Criteria, when a submitted Tenderer's Technical Offer/Questionnaire fails to meet any one of the pre-established minimum mandatory technical requirements **not included in the BPQR table**, the offer is to be considered as technically not compliant and consequently a 'zero' (0) score is to be allocated in the relevant ePPS slot without the need to evaluate further.

In a similar way, a 'zero' (0) score is to be allocated (through the ePPS) to any one of the **mandatory** BPQR criteria whose minimum requirements are not met. Although this effectively disqualifies the

particular offer, the evaluation of all the other BPQR criteria is to be carried out, in order to be in a position to provide the bidder/tenderer with the strengths and weaknesses of the offer.

Those that qualify from the technical evaluation, following the preparation of a provisional technical report, will be requested to submit the samples to corroborate the technical offer, within a specific date and time and as originally indicated in the Sample list as issued with the tender document.

Stage 3:

A Technical Evaluation Grid shall be included in the report and endorsed by the respective Evaluator. This shall eventually be annexed to the final report prepared by the Evaluation Committee.

3.3 Financial Evaluation

Following the completion of the Administrative and Technical Evaluation, the Committee then proceeds to evaluate the financial offers submitted by tenderers which were determined administratively and technically compliant. Tenders considered administratively and/or technically non-compliant need not be considered further.

Financial offers and any related documentation submitted must be analysed in detail and workings shall be checked for arithmetical errors both in computation and summation.

Unit costs shall be multiplied by the quantities as detailed in the original tender document and total costs shall be summed up.

It should be noted that, where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into consideration.

Furthermore, except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price quoted will be the price taken into consideration.

A table must be drawn up, showing the ID of the tenderers, the actual values as submitted and value of offers that have been arithmetically corrected. In the event that the tender is divided into lots, a separate table must be drawn up for each lot.

In the event of arithmetical errors, the amount stated will be adjusted by the TEC and the tenderer will be bound by that adjusted amount;

- (i) The TEC must seek the prior approval of the Director of Contracts/DCC/MPU, as the case may be, to communicate the revised price to the tenderer;
- (ii) If the tenderer does not accept the adjustment, his tender will be rejected and his tender guarantee may be forfeited;
- (iii) The TEC must determine the final tender price, based on the corrections performed;

Three decimal points do not exist as currency in the Euro currency; therefore financial offers being quoted having three decimal points, cannot be accepted. Offers are to be submitted up to two decimal points.

The TEC may reject offers deemed as abnormally low. This applies only to tenders falling under regulation 9 (1) (b).

4. Conclusion of the Evaluation Process

4.1 A final report is to be drawn up and read out during the last meeting. Each member of the Evaluation Committee is to endorse each page of the report and sign in full in the Signature section of the report. The whole report will need to be endorsed and initialized on all pages by all Evaluation Committee members. Once ready it shall be uploaded through the ePPS for audit purposes.

4.2 The Minutes of all meetings shall also be read out and duly endorsed by the Chairperson, Secretary and initialled by the voting Evaluation Committee members.

4.3 The TEC must draw up clear recommendations, which shall be presented for the approval of the DCC/MPU/GCC.

5. Objections

5.1 Members of Evaluation Committees should familiarise themselves with the remedies provisions in procurement regulations.

5.2 It should be noted that members of the Evaluation Committee shall be present during the public hearing and may be called to give witness and provide sufficient evidence and clarifications as to the conclusions submitted in the Tender Evaluation Report.

5.3 In line with Section 2 (Right of Appeal) of the e-tender templates, once an objection is filed through the Public Contracts Review Board, the whole tender process is halted.

In the event that an objection is lodged at the Public Contracts Review Board (PCRB), within the stipulated timeframes, and including the required deposit and the PCRB rules in favour of the appellant, it is highly likely that the appellant is reinstated in the process.

TEC is to draw up a fresh evaluation report, taking into account the PCRB decision and submit fresh recommendations.

A new appeals period is to follow.

In the event that after the closing date of submission of offers, the CA decides that the procurement is no longer required, the TEC that must draw up an evaluation report thereby recommending the cancellation of tender, based on the advice by the CA, and in terms of the General Rules Governing Tenders.

5.4 Should there be no objections, post-standing period; the Economic Operator recommended for award will be prompted to accept the award through the ePPS.

ANNEX I

CURRICULUM VITAE

Ref:	Tender for the
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Proposed role in the project:

1. **Family name:**
2. **First names:**
3. **Date of birth:**
4. **Nationality:**
5. **Education:**

Institution [Date from - Date to]	Degree(s) or Diploma(s) obtained:

7. **Language skills:** Indicate competence on a scale of 1 to 5 (1 - excellent; 5 - basic)

Language	Reading	Speaking	Writing
English			
Maltese			
Italian			

8. **Membership of professional bodies:**
9. **Other skills:** (e.g. Computer literacy, etc.)
10. **Present position:**
11. **Years within the firm:**
12. **Key qualifications:** (Relevant to the project)

13. Specific experience in the region:

Country	Date from - Date to

14. Professional experience:-

Date from - Date to	Location	Company	Position	Description

15. Other relevant information (e.g., Publications)

**ANNEX II DECLARATION OF
IMPARTIALITY AND CONFIDENTIALITY**

PUBLICATION REF: _____

I, the undersigned, hereby declare that I agree to participate in the evaluation of the above-mentioned tender procedure. By making this declaration, I confirm that I have familiarized myself with the information available to date concerning this tender procedure. I further declare that I shall execute my responsibilities honestly and fairly.

I am independent¹ of all parties which stand to gain from the outcome of the evaluation process². To the best of my knowledge and belief, there are not facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence in the eyes of any party; and, should it become apparent during the course of the evaluation process that such a relationship exists or has been established, I will immediately cease to participate in the evaluation process.

I agree to hold in trust and confidence any information or documents ("confidential information") disclosed to me or discovered by me or prepared by me in the course of or as a result of the evaluation and agree that it shall be used only for the purposes of this evaluation and shall not be disclosed to any third party. I also agree not to retain copies of any written information or prototypes supplied.

Confidential information shall not be disclosed to any employee or expert unless they agree to execute and be bound by the terms of this Declaration.

Name	
Signed	
Date	

¹ Taking into consideration whether there exists any past or present relationship, direct or indirect, whether financial, professional or of any other kind.

² i.e. all [tenderers/applicants]* who are participating in the [tender/call for proposals]* whether individuals or members of a consortium, or any of the partner or subcontractors proposed by them.

* Delete as applicable