

**Standard Operating
Procedures (SoP)**

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

Version 1.5

(September 2021)

Department of Contracts

Introductory note:

Consistent with the concept of fairness and transparency - any evaluation of bids has to be conducted in full.

The evaluation process has three distinct and sequential stages; Administrative; Technical; Financial. At each stage evaluation has to be complete, i.e. the evaluation has to be carried out on the whole part and hence the evaluation of the technical offer has to be carried out on ALL the technical aspects of the offer.

EU jurisprudence and advice from the Attorney General's office is clear in that in order to be fair on each and every bidder, it would not be fair to completely evaluate the technical offer of the cheapest (or any) bidder and not fully evaluate another submitted bid. This is the principle of equal treatment. Economic Operators spend a great deal of financial and human resources in order to compile their bids and it would be unfair to simply say they are not compliant on one aspect of their financial offer without identifying if they had any other non-compliant technicalities. They have a right to know exactly on what technical aspects their offer was non-compliant. So much so that if known to them they may identify their shortfall and remedy it in future procurement opportunities.

It is very often a misconception of the evaluation process that procedures should be disregarded for the sake of it being considered not of significance or of importance to the same evaluation board and that it will take (for them unnecessary) time to request clarifications or rectifications.

Another important point to note is that when disqualifying bidders on technical grounds one MUST indicate ALL the non-compliant technical specifications since these will be liable to an appeal. There have been instances when only one technical aspect was identified as non-complaint out of a dozen, the bidder appealed and the case was upheld with the consequence that the Contracting Authority was obliged to award the contract to this bidder notwithstanding that the offer was grossly non-complaint. In fact one could argue that the evaluation board was non transparent in its procedures since the other 11 non-compliant specifications were not identified.

Hence, the evaluation process should be conducted in a full and transparent way by examining fully the technical offer of each and every economic operator that submitted a bid.

For avoidance of doubt and for clarity's sake, it is being reiterated that the Evaluation Process has 3 consecutive stages. Therefore, if a bidder is found to be non-compliant at a particular stage (e.g. Technical), after a full evaluation of the Technical Offer, his/her bid shall not proceed to the next stage and shall not be considered further.

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 tender will not be published unless the nomination of the Evaluation Committee has been approved a priori.

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

(i) The Evaluation Committee shall be nominated by the Head of the Contracting Authority and approved by:

(a) the Head of the Contracting Authority for Departmental Tenders published by Contracting Authorities listed under Schedule 2 of SL 601.03 and by Contracting Entities involved in activities outlined in S.L. 601.05

(b) the Sectoral Procurement Directorate for tenders utilising an open or restricted procurement procedure having an estimated procurement value exceeding €10,000 Exc. VAT but not exceeding €750,000 Exc. VAT and where the Contracting Authority is listed under Schedule 16 of SL 601.03¹

(c) the Director General (Contracts) for tenders exceeding €139,000 Exc VAT² (Schedule 2 CAs) and exceeding €750,000 Exc VAT (Schedule 16 CAs)

(d) the Head of the Contracting Authority for Tenders published by Contracting Authorities listed under Schedule 3 of SL 601.03

(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

¹ Please refer to Contracts Circular 04/2021

² The relevant threshold for Contracting Entities operating under the Utilities Regulation S.L. 601.05 reads Euro428K Exc VAT.

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/Sectoral Procurement Directorate/Director General (Contracts) should be informed beforehand within two working days from notification. The Head of the Contracting Authority/Sectoral Procurement Directorate/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 (i) above.

1.2 Contracting Authorities must nominate the members of the TEC (minimum of five persons) for approval and association through the ePPS, as in 1.1. 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.

1.3 For Call for Quotations (CfQ) – the nomination of three members to sit on the TEC will suffice (one can be appointed as a Chairperson with voting rights and the other two as evaluators – therefore – the three will have voting rights and the Chairperson will need to finalize the evaluation). Similarly for the establishment stage (Phase 1) of the Dynamic Purchasing System (DPS) – the nomination of three members to sit on the TEC will suffice. **Invariably, the minimum evaluators shall always be an odd number.**

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. Tender Evaluation Committee shall consist of members who are experts in their own right and shall possess the following qualities:

Competence

Qualifications

Technical Knowledge on the Subject

Track record with particular emphasis on the general subject/s

No Conflict of Interest

Impartiality and Confidentiality

Accordingly, as being indicated in Annex II of this SoP, which is the template request that is forwarded to the CA by the DoC in respect of the TEC nominations, the Chairperson, Secretary and Evaluators need to attend for training courses available through the IPS prospectus, as follows:

The Chairperson and Secretary need to attend for the following courses:

- 4F2016 Continuous Development Award in Public Procurement (MQF Level 4) (5 half days);
- OD1318 Electronic Public Procurement (3 half days); and
- OE8815 Evaluators Training (1 half day).

It is to be noted that OF2118 Procurement by Contracting Authorities (2 half days) is a preliminary requirement to attend for 4F2016.

The Evaluators (voting members) need to attend for the following course:

- OE8815 Evaluators Training (1 half day).

The Training Programme requirements in relation to the ePPS system are not intentioned to disrupt a Contracting Authority's daily routine; the main scope is to emphasise the necessity that TEC members are trained hands-on on all aspects of procurement including electronic.

1.5 The Secretary, shall be conversant with the procurement procedures so as to take care of all necessary rectifications/clarifications.

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. As a general rule Evaluation Committee nominees are employees within the Public Service/Sector. Having said this, in exceptional circumstances and upon the approval of the Director General Contracts or his delegate, nominees may also be Ex-officio and/or retired Public Service/Public Sector employees or non-public employees who have extensive experience in public procurement may serve as evaluators on Evaluation Committees.

Version 1.5 SoP for TEC

In the latter cases, 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 **nominated and chosen by the respective Contracting Authorities** 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 procurement documents.

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. The appointed consultant / technical advisor shall have no voting powers unless he/she is a public sector employee. Therefore, in the case of the latter, he/she shall be a voting member. Such competent consultant/technical advisor should be nominated and approved together with the Evaluation Committee.

The role of the said advisor is only to assist the Evaluation Committee, thus, not take decisions on their behalf. Therefore, the Evaluation Committee is at liberty to accept or not the advice of the Consultant / Technical Advisor. Ultimately, the TEC has to bear the responsibility of their actions and recommendations throughout the whole Evaluation Process.

The TEC is to keep in mind that while technical advisor is an expert in the particular technical field, it is the TEC that has the expertise in public procurement and is responsible of ensuring that Public Procurement Regulations and principles are adhered to.

Version 1.5 SoP for TEC

The appointed Consultant / Technical Advisor shall draw up a Technical Report (including findings, observations, merits and recommendations) which shall not form part of the Evaluation Report, however, it shall be uploaded in the restricted area of the ePPS. The Evaluation Committee shall review and consider the Technical Report. Thereafter, the Committee shall formulate its own opinion on the merits of the bid/s and if deemed necessary it shall reproduce part/s of the Technical Report in the Evaluation Report as part of its 'own' evaluation and recommendation/s.

1.13 The appointed consultant / technical advisor shall draw up a technical report. However, the CA is responsible to keep the report in main file for auditing purposes and to upload this report in the restricted area through the ePPS.

1.14 Pursuant to Regulation 17 of the Public Procurement Regulations S.L. 601.03 and Regulation 36 of Utilities Procurement S.L. 601.05, the Evaluation Committee shall communicate and address the said Evaluation Report to the responsible body, namely the Director of Contracts or the Departmental Contracts Committee or the Sectoral Procurement Directorate or the Head of the Contracting Authority, as the case may be. The uploaded documents should include the information referred to in Contracts Circular 10/2020 and any additional documents shall be included in the restricted area as annexes to the automated evaluation report. The report and the documents uploaded shall include (*but not be limited to*) the following information (as applicable):

- Name and address of the Contracting Authority
- Subject-matter and Value of the recommended Awardee
- Results of the Qualitative Selection (where applicable) including the (i) Names of the Selected Bidder/s and the Reasons for their selection and the (ii) Names of the Rejected or Excluded bidders and the Reasons for their rejection/exclusion
- Reasons for the Rejection of Offers found to be Abnormally Low (if applicable)
- Name of the Successful Bidder and the Reasons why the offer was selected
- Share of the contract which the Successful Bidder intends to subcontract to third parties (if known and if applicable)
- Name/s of the Main Contractor's Subcontractors (if known and if applicable)
- Reasons why there was no award of a Contract (where applicable)

Once finalised, uploaded and submitted through the system, the final recommendations should be passed through the Head of the Contracting Authority or his/her delegate.

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 SPD, the Committee will be summoned by the Head of the SPD;
 - (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 SPD/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 SPD Tenders, only by the Head of the SPD through the respective Permanent Secretary;
 - (c) for above threshold procurement, by the Director General (Contracts) or his delegate.

Version 1.5 SoP for TEC

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.

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 must agree to the Declaration of Impartiality and Confidentiality through the ePPS. Whereas appointed consultant/technical expert shall provide this form - as per document attached at Annex III through the restricted area. This form/endorsement through the ePPS will be 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 the technical advisors/consultants (if applicable) and will eventually upload the forms through the restricted area.

2.6 The Chairperson will then proceed to explain briefly the composition of the tender and the method of evaluation to be adopted (award criteria as stipulated in the procurement document). 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 and prepare the necessary summary.

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

2.9 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;

2.10 During adjudication, the TEC may deem necessary to request a number of clarifications/rectifications. Any communication concluded during the adjudication stages with the bidders must be made through the ePPS.

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

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

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

2.14 Reasons deeming offers as non-compliant must refer to the specific clauses as published in the procurement document.

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

2.16 The Evaluation Process shall proceed in the following three (3) **sequential** stages:

- Administrative Evaluation
- Technical Evaluation
- Financial Evaluation

Evaluation guidance can be found through the following links under the Resources Section:

www.contracts.gov.mt and www.etenders.gov.mt/Resources.

3. Validity of tenders and the tender guarantee (bid bond) (if applicable)

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 through the ePPS – as necessary - in the eligibility section justifications/comments or in the conclusion as applicable, should also make reference to this verification.

Version 1.5 SoP for TEC

In case the Tender Evaluation Committee (TEC) envisages that the evaluation shall potentially be exceeding the validity period of 90 days (or as established in the procurement documents), the Contracting Authority shall seek internal approval and/or through the SPD or the Department of Contracts (as applicable) to request an extension of the validity period of the offers. If approved, the extension request shall be sent by the TEC as part of the evaluation clarifications through the e-PPS.

During the evaluation process, rectifications/clarifications may only be requested (through the necessary channels) vis a vis information/requirements already stipulated in the published procurement documents. No additional/supplementary information is allowed.

To ascertain this, in the request for rectifications/clarifications the TEC is to specifically quote the relevant Article/Clause in the procurement document.

Requests for Clarifications/Rectifications concerning a previous request dealing with the same shortcoming shall not be entertained.

More information re how rectifications/clarifications are to be processed through the ePPS may be accessed through the **Evaluation Clarification Enhancements Guidance Notes**.

3.1 Administrative Evaluation

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 in the Instructions to Tenderer's (Section 1) of the procurement document; namely, the Eligibility Criteria, Exclusion (including Blacklisting) Criteria and Selection Criteria. For tenders above the departmental threshold (currently **Euro139,000** net of VAT), these criteria are all encompassed in the integrated ESPD (European Single Procurement Document).

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

The Evaluation Committee is to obtain the prior approval (including specific wording) of the Director General (Contracts)/Departmental Contracts Committee/Sectoral Procurement Directorate (SPD), 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

Version 1.5 SoP for TEC

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, as may be applicable.

It is advised that the templates provided with the Procurement Policy Notes published through this Department are utilised at all times.

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.

In case there are identical offers submitted by the same bidder; a clarification is to be sent to the bidder (following the necessary approvals) so as to confirm whether both offers are to be considered as multiple offers or if otherwise, which is the offer to be taken into consideration. The clarification letter should not include the wording that if a reply is not received the bids shall be disqualified, but rather, if no reply is received both bids will need to be evaluated.

3.2 Technical Evaluation

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).

Version 1.5 SoP for TEC

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 2, are permissible in the technical evaluation stage vis-a-vis the Key Experts (and the relative forms) and Literature **only**.

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.

For tenders which value is above the departmental threshold, the Committee must first seek approval from the Director General (Contracts) or the Sectoral Procurement Directorate – SPD (as applicable) before submitting clarifications to the tenderer(s). For Departmental tenders, approval must be acceded through the Departmental Contracts Committee (DCC) or the Sectoral Procurement Directorate (SPD) (as applicable).

When requesting clarifications, tenderer/s are to be given sufficient time (in line with the time-frames stipulated in the procurement document) for replies. Accordingly in the clarification request sent to the tenderer/s, a specific 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.

Those that qualify from the technical evaluation, will be requested to submit the samples (if applicable) 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.

Evaluation Committees may raise requests for the submission of CVs by key Experts and for the submission of samples without the need to request any authorisations through the DoC, SPD or DCC.

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.

A Technical Evaluation Grid shall be drawn up and uploaded through the ePPS.

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.

Any rate, line item, or total which has been left empty but can be worked out arithmetically, should be worked out by the TEC.

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.

Any item that is left unpriced by the Economic Operator (both rate and line total) shall be deemed as absorbed in the grand total and therefore that it is free of charge. The TEC should confirm this with the bidder so as such an item will also be deemed as free of charge in case of any necessary modifications.

A confirmation (as per templates provided by this Department in Procurement Policy Note 7) of the said arithmetic correction/s is to be forwarded by the Evaluation Board through the ePPS, to the tenderer so he/she confirms this arithmetic correction. A copy of the adjusted Financial Bid is to be attached to the Financial Offer Confirmation. **Accordingly, the Evaluation Committee shall adjust the submitted Financial Bid through handwritten amendments; so a copy of the full revised Financial Bid is sent to the bidder, so he/she can confirm this arithmetic correction.**

Procurement Policy Note #07 (updated) outlines that no prior approval of the Director General (Contracts), the Sectoral Procurement Directorate (SPD), the Departmental Contracts Committee (DCC) or any other awarding body, as the case may be, shall be sought before any communication with bidders ensues.

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) 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 including any amount being quoted having three decimal points, cannot be accepted and will be disqualified. Offers are to be submitted up to two decimal points.

All administratively, technically and financially compliant offers shall form part of the 'Final Ranking'.

Full ranking shall apply vis a vis all types of award criteria.

On the other hand, a Financially Non-Compliant offer (and thus the offer should not be ranked) would refer to an incomplete or an incorrect Financial Bid, which cannot be clarified through an arithmetic error.

Furthermore, whilst it is acknowledged that there are instances where a number of financial offers excessively exceed the Estimated Procurement Value, thus, it is unlikely that such offers are deemed as fair and reasonable, such offers should still be ranked. In the case where the financial offer of the recommended bidder is above the Estimated Procurement Value and no extra funds are available or it is deemed that the offer is not financially worthwhile, the Procurement Call would need to be cancelled as per the applicable sub-article of article 18.3 of the GRGT:

- (a) the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all

There might be instances where some offers are rejected in view that these are deemed as abnormally low. For more information on this, one should go through the relative Guidance Note available through the Resources Section of the ePPS (www.etenders.gov.mt).

In the eventuality that the first ranked offer (which was within the Estimated Procurement Value) is rejected by the Economic Operator, the evaluation should be re-opened and a fresh evaluation should be drawn up.

4. Conclusion of the Evaluation Process

4.1 A final decision to generate the report shall be made by the Evaluation Committee.

For tenders administered by the Department of Contracts on behalf of Contracting Authorities, the Evaluation Committees are invariably to prepare the draft letters for notification of award/rejection/cancellation and forward these letters in soft copy to the person/section that will notify the bidders of the outcome of the tendering procedure.

For tenders administered by the Sectoral Procurement Directorate on behalf of Contracting Authorities, the Evaluation Committees may be requested to prepare the draft letters for notification of award/rejection/cancellation and forward these letters in soft copy to the person/section that will notify the bidders of the outcome of the tendering procedure.

Upon receipt, prior to sending the letters to un/successful bidders, the competent authority (DOC, SPD, CA) shall amend the said letters as necessary and as applicable.

4.2 The TEC must draw up clear recommendations, which shall be presented for the approval of the DCC/SPD/GCC and in case of an award, it should clearly validate in the evaluation report conclusion, why the awarded price is considered as fair and reasonable when compared to the estimated procurement value of the procurement in question.

4.3 In case it transpires that clarifications/rectifications were issued by the TEC but these were not approved by the necessary channels during evaluation, the Departmental Contracts Committee, Sectoral Procurement Directorate, the Department of Contracts or the General Contracts Committee reserves the right to cancel the procurement procedure.

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.

Version 1.5 SoP for TEC

5.3 In line with the Right of Appeal quoted in the General Rules Governing Tendering, 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.

A new TEC is to be appointed through the necessary channels and this new TEC is to start afresh the evaluation, 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 just the same evaluate through the ePPS and 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:	
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Tender for the

Employed within the <i>(tick as applicable):</i>	Public Service <input type="checkbox"/> Public Sector <input type="checkbox"/> Other <input type="checkbox"/>
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Proposed role in the project:

1. **Name and surname:**

2. **Education:**

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

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

Language	Reading	Speaking	Writing
English			
Maltese			
Italian			

4. **Other Skills:**
5. **Present position within the Contracting Authority:**
6. **Number of years within the Contracting Authority:**

7. Specific professional experience in the region:

Date from - Date to	Contacting Authority	Position	Description of duties (in general)

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

Annex II: Nomination of Tender Evaluation Committee

You are kindly requested to nominate a minimum of five (5) officers (including a Chairperson and Secretary) to sit on the Evaluation Committee in connection with the reference and title of the tender in question. As a general rule, Evaluation Committee nominees shall be employees within the Public Service / Sector.

The Department of Contracts would like to bring to your attention that the Tender Evaluation Committee (TEC) shall consist of members who are experts in their own right, competent in the relevant field and possess the following qualities, attributes, knowledge, experience and skills:

- a. Competence
- b. Qualifications
- c. Technical knowledge on the subject
- d. Track record with particular emphasis on the subject matter under review
- e. Impartiality and Confidentiality
- f. No Conflict of interest

Moreover, all the TEC members are expected to be familiar and conversant with procurement processes, uphold the Public Procurement Regulations and put in practice the EU principles of Equal Treatment, Non-Discrimination and Transparency.

Moreover, the Evaluation Committee members shall endeavour to attend procurement-related Training Programmes organised by the Institute for the Public Services in collaboration with the Department of Contracts. However, the Chairperson and the Secretary shall specifically be in possession of the MQF Level 4 accredited certification in respect of the Continuous Development Award (CDA) in Public Procurement (*previously known as the National Public Procurement Regulations – NPPR*) which amongst others includes a session specifically on the Evaluation Process. In addition, the Chairperson and the Secretary shall also attend the 3-day Electronic Public Procurement and the 1-day Evaluators' Training for e-Tenders courses; both training programmes take a practical and hands-on approach on Government's electronic procurement platform (better known as the ePPS). Furthermore, the voting evaluators shall specifically attend the Evaluators' Training for the e-Tenders course.

In line with the above, the Contracting Authority shall nominate Evaluation Committee members who possess the above-mentioned criteria. To this effect, through the submission of a Curriculum Vitae (CV) (which amongst others shall include the current place of work and position) of each nominated officer the Contracting Authority shall ensure that the above criteria are respected. Accordingly, each member of the Tender Evaluation Committee shall prepare a Curriculum Vitae as per the CV Template detailed in Annex 1 of the latest version of the 'Standard Operating Procedures: Guidelines for Tender Evaluation Committees'.

Moreover, the Contracting Authority shall compile the below table providing the required details:

TEC's Role	Name & Surname	e-mail address	e-PPS Username	Contracting Authority	NPPR Certification [MQF Level 4]*	Electronic Public Procurement*	Evaluators' Training on the ePPS*
Chairperson							
Secretary							
Evaluator							
Evaluator							
Evaluator							
Contract Manager 1**							
Contract Manager 2**							
Contract Manager 3**							

****Indicate with a Yes or No or N/A if the Tender Evaluation Committee member attended (or not) the respective course.***

Kindly be reminded that the Director General (Contracts) has the authority, and reserves the right, to disqualify any or all of the Tender Evaluation Committee members if any of the aforementioned criteria or content of this communication are not respected and complied with.

Lastly, once the officers are approved to sit on the Tender Evaluation Committee, each member shall thoroughly review the 'Standard Operating Procedures: Guidelines for Tender Evaluation Committees' in order to prepare oneself prior to the actual commencement of the Evaluation Process. In addition, Tender Evaluation Committee members shall thoroughly read the Procurement Document (including all published ancillary documentation) in relation to the Call for Tenders that they shall evaluate. Furthermore, members are highly encouraged to familiarise themselves with other procurement documentation such as, but not limited to, the General Rules Governing Tenders, Procurement Policy Notes and Contracts Circulars.

*****Contract Manager*****

In line with Contracts Circular No. 11-2020, prior to the publication of a Procurement Call, Contracting Authorities shall nominate and appoint a Contract Manager/s. The Contract Manager nominee shall be a Public Service/Sector officer with an active ePPS account. The nominations shall be submitted along with the nominees and appointment of the Tender Evaluation Committee members. Accordingly, for ease of coordination, the approval of the Contract Manager nominee shall follow the same procedure. To this effect, the Contracting Authority is required to include details of the Contract Manager/s in the above table.

**ANNEX III 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