



NRPB
NATIONAL RECOVERY
PROGRAM BUREAU

National Recovery Program Bureau Procurement Manual

Working document for NRPB staff and consultants

Version 1 - April 2025

[Replaces and supersedes any previous version of NRPB's Procurement Manual]

Defined Terms and Abbreviations

Term/Abbreviation	Full terminology/definition
Bid	An offer, by a Bidder, in response to a solicitation document, to provide the required Goods, Works, or Services.
Bidder	An entity (individual, firm or joint venture) that submits a Bid for Goods, Works, or Services in response to a solicitation document.
Consultant	An entity (individual, firm or joint venture) that provides consulting services. When the Consultant is an individual, they are not engaged by NRPB as employees.
Consulting Services	A range of services that are of an intellectual, technical or advisory nature and are provided by Consultants. These services typically involve providing assistance and expert advice within a particular field.
DOA	Delegation of Authority
DOO	Director of Operations
EPP	Emergency Procurement Procedures
FA	Framework Agreement
Goods	A range of tangible products that fall under a variety of commodity headings, including but not limited to raw materials, machinery, equipment, vehicles, plant; as well as related services such as transportation, insurance, installation, commissioning, training, and initial maintenance.
Government; GoSXM	The Government of Sint Maarten
HoP	Head of Procurement
HOD	Head of Department
IFI	International Financial Institution
Incoterms	The international commercial terms for goods published by the International Chamber of Commerce.
KPI	Key Performance Indicator
LCS	Least-Cost Selection of Consultants
Manual	This Procurement Manual

Term/Abbreviation	Full terminology/definition
MDB	Multilateral Development Bank
MSME	Micro, small or Medium-sized enterprise
Non-Consulting Services	Services which are not Consulting Services. They are not intellectual in nature and are normally bid and contracted on the basis of performance of measurable outputs, and for which performance standards can be clearly identified and consistently applied.
NRPB	National Recovery Program Bureau
Organization	NRPB (unless otherwise specifically implied by the context)
PA	Procurement Assistant
PCMO	Procurement and Contract Management Officer (any NRPB staff or consultant that as part of the Procurement Department executes procurement functions on behalf of the NRPB)
PGM	Program Manager
Piggybacking	Using another agency's already-competed contract to buy similar goods/services, saving time and effort. A new contract must be executed by the piggybacking agency.
PM	Project Manager
PO	Purchase Order
PP	Procurement Plan
PR	Purchase Requisition (an internal document that defines requirements and triggers a procurement process)
Procurement Manual	This document, governing procurement conducted by NRPB on its behalf or on behalf of another Government entity.
Procurement process	The process that starts with the identification of a need, preparation of requirements, Vendor selection, contract award, and contract management.
Proposal	An offer, in response to a Request for Proposals, which may or may not include price, to provide Goods, Works or Services.
QBS	Quality-based Selection of Consultants
QCBS	Quality and Cost-based Selection of Consultants

Term/Abbreviation	Full terminology/definition
REOI	Request for Expressions of Interest (a preliminary stage in the selection of Consultants, resulting in shortlisting the Consultants to be issued an RFP)
RFB	Request for Bids (a multi-stage competitive method for the solicitation of Bids for Goods, Works or Non-Consulting Services)
RFI	Request for Information (a tool used to elicit information from potential Vendors)
RFP	Request for Proposals (a multi-stage competitive method for the solicitation of Proposals for complex Goods, Works, or Services, where price is not the sole basis for award)
RFQ	Request for Quotations (a simplified competitive method for the solicitation of price quotations for readily available off-the-shelf Goods or Non-Consulting Services, standard commodities or simple Works of small value)
Services	Consulting or Non-Consulting Services
SOW	Scope of Work
SPD	Standard Procurement document
SXM	Sint Maarten
TCO	Total Cost of Ownership
TOR	Terms of Reference (a statement used to define the objectives, scope of the assignment and performance requirements for Consultants)
VfM	Value for Money
Vendor	An entity (individual, firm or joint venture) that is contracted to supply Goods, Works, or Services
Works	A category of procurement that refers to construction, repair, rehabilitation, demolition, restoration, maintenance of civil work structures, and related services such as transportation, insurance, installation, commissioning, and training.

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Section 1. General Framework

Introduction

This Manual serves as a one-stop guidance for NRPB staff¹ responsible for, or involved in, the preparation, review or approval of actions or documents related to the conduct of procurement activities.

The Manual is structured on 3 levels – procurement principles, procedures and processes to be followed – and is complemented by guidance notes² dealing with specific procurement actions.

Purpose and Application

The purpose of this Manual is to guide all procurement activities undertaken by NRPB on its behalf, or on behalf of other Government entities, according to the applicable legal arrangements in place.

The provisions of the Manual shall be applied with due professional judgement by procurement practitioners and other staff involved in procurement activities, while ensuring full compliance with all other applicable laws, regulations, rules, and policies of the NRPB and of the Government.

The Manual shall not apply when laws or other agreements signed by the Government require the application of other procurement rules, regulations or procedures (including those arising out of treaties or other forms of agreements entered into by the Government and an MDB, IFI or other national, regional or international entity).

Unless otherwise specifically stipulated in NRPB operational documents, the Manual shall also apply to purchases of operational expenses related to the day-to-day functioning of NRPB.

The Manual shall not apply to Public Private Partnerships (PPPs), which are covered by separate regulations.

Language

NRPB's official language is English. All procurement and procurement-related documents shall be prepared, submitted, reviewed or issued in English.

¹ Throughout this document, unless otherwise specifically implied by the context, staff refers to both NRPB employees and consultants.

² Unless otherwise specifically implied by the context, any reference to the Manual should be understood to refer to the Manual or any of these guidance notes.

Update and Maintenance

This Manual is a working document subject to periodic updates as approved by the Director of NRPB, to ensure that its provisions remain relevant and up to date with international and public procurement best practices.

Comments or suggestions for improvement should be directed to the Procurement Department via email at procurement@nrpbsxm.org.

Section 2. Core Procurement Principles

This section sets out the key principles and policies governing the procurement of Goods, Works or Services.

As the custodian of the funds entrusted to its stewardship, NRPB's mission is to achieve value for money in procuring Goods, Works, and Services according to its respective mandates. It must do so, and be seen to be doing so, by observing the following core principles:

Safeguarding the best interest of the client (NRPB or other entity)

All procurement activities will be carried out in compliance with all applicable laws, regulations and rules. In this regard, this Manual requires that due consideration be given, among others, to the interest of the NRPB, the Government or any other client entity when exercising the procurement functions. The best interest shall be determined by the professional judgment of the official delegated with the responsibility and authority to make such a determination.

Value for money

Procurement activities shall use available resources (whether human, financial, material or time) in a manner that ensures

1. Effectiveness (output or objective met, e.g. contract awarded)
2. Efficiency (output or objective met with the best use of inputs, e.g. contract awarded in the shortest time possible and/or within the estimated budget)
3. Economy (lower inputs actually used compared with initial estimates e.g. time and/or money savings)
4. Sustainability³ (objective met with due consideration of long-term benefits e.g. protection of the environment, energy savings, fostering growth, reducing poverty or inequality)

Integrity

Procurement shall be conducted using resources, assets and authority according to the intended purposes and in a manner aligned with the public interest and with the principles of good governance, which include without limitation accountability for one's actions (or inactions) and ethical behavior (absence of any bias or conflict of interest, combating fraud and corruption etc.)

³ For more details on sustainability, see Guidance Note on Sustainable Procurement

Fit for purpose/proportionality

Procurement shall be planned and conducted using the most adequate approach to meet the required outcome or objective with due consideration of the context (e.g. urgency), risk (e.g. level of competition), value and complexity of the procurement. Simple procurements shall follow straightforward, time-efficient, uncomplicated processes, whereas complex procurements shall include all necessary safeguards.

Transparency

All information on procurement policies, procedures, opportunities, and processes is clearly defined, made public, and/or provided to all interested parties concurrently. A transparent system has clear mechanisms to ensure compliance with established rules (unbiased specifications, objective evaluation criteria, use of standardized documents, equal dissemination of relevant information to all parties, confidentiality of offers, etc.). Said mechanisms include maintaining accurate procurement records that are open to inspection by auditors.

Fairness

The conduct of procurement must ensure equal opportunity and treatment for bidders (in the context of the appropriate selection method), a credible mechanism for addressing procurement-related complaints and providing recourse, and an equitable balance of rights and obligations between NRPB and its Vendors. A fair procurement is free from any form of undue influence, favoritism, self-interest or coerciveness.

Section 3. Governance

Integrity considerations⁴

NRPB staff involved in the conduct of procurement are required:

1. to comply with all applicable legislation, rules and procedures;
2. to observe the highest ethical standards of efficiency, competence, and integrity (including without limitation probity, impartiality, fairness, honesty and truthfulness);
3. to refrain from any action which might adversely reflect on their status as professionals or on the integrity, independence, and impartiality that are required by that status (including refraining from any fraudulent or corrupt practices as defined below, as well as avoiding any actual, potential or perceived conflict of interest as defined below);
4. to actively prevent and address fraudulent or corrupt practices, ensuring that all procurement activities are conducted with transparency and accountability).

When fraudulent and corrupt practices occur, the damage extends far beyond financial losses, posing serious threats to NRPB's credibility and to its ability to achieve its operational and programmatic objectives. The NRPB has a zero-tolerance policy regarding violations of ethical standards.

NRPB staff must mitigate the risks of conflicts of interest, fraudulent and corrupt practices at all stages of the procurement process. To do so, they must implement measures to identify conflicts of interest (as detailed below) as well as fraudulent and corrupt practices and deploy appropriate responses to prevent these improprieties.

Proper standards of conduct must be enforced during emergency situations, where the pressure to achieve rapid results may increase the risks of conflict of interest, fraud or corruption.

Fraudulent and corrupt practices

For the purposes of this Manual, and in the context of procurement and contract implementation activities, fraudulent and corrupt practices are generic terms that are deemed to include:

1. corrupt practices: the offering, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
2. fraudulent practices: any act of omission or misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain any benefit or to avoid an obligation;

⁴ Further guidance on ethical and professional obligations may be obtained from the NRPB Code of Conduct

3. collusive practices: an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
4. coercive practices: impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party;
5. obstructive practices: deliberately destroying, falsifying, altering or concealing of evidence material to an investigation, or making false statements in order to impede an investigation into allegations of any corrupt, fraudulent, collusive or coercive practice; threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing an investigation; acts intended to materially impede the exercise of inspection or audit rights provided by any applicable legislation or regulation.

Conflict of Interest

A conflict of interest arises when someone is compromised because their personal interests or obligations conflict with the responsibilities of their job or position. This means that their independence, objectivity or impartiality can be questioned.

A conflict of interest can be:

- actual (the conflict already exists): given one's personal or private interests, one finds oneself in a position to be influenced or biased (e.g. because of personal relationships or financial interests with a potential Vendor that submitted an offer).
- potential (the conflict is about to happen or could happen): it refers to circumstances where it is foreseeable that a conflict may arise.
- perceived: where other people might reasonably think that a person has been compromised because of their personal interests (e.g. where a close personal friendship exists between a staff member and the director of a potential Vendor that submitted an offer).

To avoid conflicts of interest, NRPB staff who have a personal, professional or financial interest in a Bidder are prohibited from involvement in any procurement process involving such Bidder. Financial interest includes, but is not limited to, interest in a business consisting of any stock, stock option, or similar ownership interest, but excludes any interest solely by means of investment in a business through a mutual, pension, or other institutional investment fund over which the staff does not exercise control.

Personal or professional interests include, but are not limited to, affiliations with any organization or enterprise over which the staff, alone or together with an immediate family member (i.e., spouse or domestic partner, and dependent children), exercise a controlling interest. These interests may also involve any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint-stock company, receivership, business or real estate trust, or any other nongovernmental legal entity organized for-profit, non-profit, or charitable purposes.

Interest may also involve any executive position or membership on the Bidder's board regardless of compensation, or any position that includes responsibilities for a significant segment of the Bidder's operation or management of a business.

Financial interest also includes the receipt of, or the right or expectation to receive, any income in one or more of the following forms: gifts, consulting fees, honoraria, salary, allowance, forbearance, debt forgiveness, interest in real or personal property, dividends, royalties derived from the licensing of technology or other processes or products, rent, or capital gains, and job offers to family members, etc.

NRPB staff involved in their official capacity in any matter relating to a profit-making business or other concern in which they hold an interest, directly or indirectly, should disclose that interest to the Head of Procurement and have the conflict of interest resolved in the best interests of the Organization. Such staff should either dispose of that financial interest or formally recuse themselves from the procurement matter which may give rise to a conflict of interest.

Also, NRPB staff must not accept any honor, decoration, favor, or gift from any Vendor or participants in any procurement procedure. If the refusal of an unexpected honor, decoration, favor, or gift would cause embarrassment to the Organization, the staff may receive it on behalf of the Organization and then report and entrust it to the Director of NRPB. The Director will either retain it for the Organization or arrange for its disposal for the benefit of the Organization or for a charitable purpose. NRPB staff who perform any function in the procurement (any staff with access to privileged procurement or technical information) process should not accept any form of hospitality, gifts; inducements, including bribes; or incentives such as free or discounted goods or private services. The NRPB operates a zero-tolerance policy in this regard. Staff members and consultants must fully respond to requests for information from the Organization, including staff members and other officials of the Organization who are authorized to investigate the possible misuse of funds, waste, or abuse.

Duty of confidentiality

Information provided by potential Vendors often includes proprietary and sensitive information that the NRPB has a legal obligation to treat with the utmost care. Therefore, all documents and communications related to NRPB procurements and contracts shall be deemed classified as "confidential" and must be managed accordingly.

NRPB views breaches of confidentiality and unauthorized disclosure or use of proprietary or confidential information very seriously and reserves the right (in addition to all other legal and contractual rights) to disqualify any potential Vendor or to terminate any relationship with a current NRPB staff member or consultant found to have violated its obligations of confidentiality.

All advertising, press releases, or printed matter that reference NRPB or a potential Vendor's relationship with NRPB must be approved by the Director of NRPB prior to publication or other use.

During the procurement process, NRPB staff outside of the Procurement Department may not communicate directly with prospective Bidders regarding any procurement-related aspects. Examples of such communications to be avoided are (i) any emails between the Project/Program Manager and any direct selected company, (ii) calls or contacts between the evaluators and some bidders, (iii) any attempt to clarify/discuss the TORs content between any NRPB representative (HR, Project team) and any selected consultant. All communications related to the procurement shall be directed through the Procurement Department.

All proprietary or source selection information must be protected from unauthorized disclosure. Accordingly, staff may not disclose such information as defined below, directly, or indirectly, to any person other than a person authorized to receive such information:

- a) Proprietary information, including information contained in a Bid or otherwise submitted to NRPB by a potential Vendor.
- b) Source selection information, including data stored in electronic, magnetic, audio, or video formats, which is prepared or developed for use by NRPB to conduct a procurement and the disclosure of which to other potential Vendors would jeopardize the integrity or the successful completion of the procurement. Source selection information includes:
 - i. Technical and financial proposals.
 - ii. Bid prices submitted in response to an NRPB procurement for sealed Bids or lists of those Bid prices prior to public Bid opening.
 - iii. Proposed costs or prices submitted in response to a NRPB procurement (for other than sealed Bids), or lists of those proposed costs or prices.
 - iv. Source selection plans.
 - v. Technical/operational evaluations.
 - vi. Cost or price evaluations.
 - vii. Competitive range determinations that identify Proposals with a reasonable chance of being selected for contract award.
 - viii. Rankings of Bids, Proposals, or competitors, and
 - ix. Reports and evaluations of source selection panels, boards, or advisory councils.
- c) The contract, including all annexes.

Procurement Roles and Responsibilities

The following are key organizational roles that relate to the procurement function of NRPB.

- a) Head of Procurement (HoP)
- b) Procurement and Contract Management Officer (PCMO)
- c) Procurement Assistant (PA)

- d) Project Manager (PM)
- e) Procuring Staff Member
- f) NRPB Support team
- g) NRPB Management

Head of Procurement (HoP)

Under the authority of the NRPB Director of Operations, the HoP is responsible for the overall strategic management of NRPB procurement activities including

- a) Proposing innovative solutions for procurement, including the development of category management strategies and implementation of approved strategies, jointly with the technical experts.
- b) Managing procurement in a transparent, accountable, and efficient manner in order to execute the Organization's supply chain management strategy and support its mandates.
- c) Identifying and implementing best practices in procurement to enhance efficiency and effectiveness.
- d) Identifying and mitigating risks associated with procurement activities, including financial, operational and reputational risks.
- e) Establishing and maintaining instructions, procedures, processes, control mechanisms, and supporting guidance on procurement activities.
- f) Making the Procurement Manual, processes, and tools available to Procurement staff, analyzing instances in which such guidance and processes have been disregarded or not properly implemented, and provide advice on any required changes.
- g) Providing the necessary guidance so that technical teams and other stakeholders in the procurement process act consistently with the Manual.
- h) Enabling the operationalization and managerial oversight of the NRPB's procurement activities through appropriate systems and reports.
- i) Supporting the identification and development of opportunities for the provision of procurement services for clients and other national organizations and ensuring appropriate modalities for service delivery.
- j) Strengthening the knowledge, skills, and career development of procurement practitioners, including identifying mandatory training and setting standards for internal and external certification.
- k) Communicating with the private sector and other government agencies on matters related to procurement.
- l) Providing clearance for PCMO at NRPB to undertake procurement.

Procurement and Contract Management Officer (PCMO)

Procurement activities can only be undertaken by PCMOs as the staff members responsible for the conduct of procurement processes. The PCMO is responsible for ensuring that the procurement process is carried out in a manner that complies with the Core Procurement Principles and achieves Value for Money in meeting the needs and the objective of the procurement.

The responsibilities of a PCMO in a procurement process are as follows:

- a) Developing the PP.
- b) Defining procurement strategies (if required), upon review of the PP.
- c) Reviewing the requirements and evaluation criteria and ensuring that they are appropriate from a procurement perspective, i.e. that they are clear, fair, relevant and aligned with the scope of procurement.
- d) Leading the procurement process and conducting supply market analysis.
- e) Preparing solicitation documents, as well as facilitating and managing the procurement process.
- f) Reviewing the technical evaluation report to ensure that the narrative of the report corresponds with the matrix and the scoring/rating.
- g) Carrying out the commercial evaluation of Bids as per pre-defined evaluation criteria.
- h) Dealing with complaints and requests for debriefing.
- i) Preparing the recommendation for an award and submitting the case to the committee on contracts, if applicable.
- j) Preparing and issuing contracts.
- k) Requesting and ensuring the safeguarding and return of any performance securities, as applicable.
- l) Performing contract management and administration duties⁵.
- m) Performing contract closeout activities.
- n) Providing clear and timely updates on procurement activities and decisions

Procurement Assistant (PA)

Under the coordination of the PCMO, the PA is responsible for all administrative, logistics and communications aspects of procurement activities.

Project Manager (PM)

The PM is responsible for the management of NRPB projects including providing input into procurement activities in all technical aspects. Some of the responsibilities of a PM in a procurement process are to assist in defining procurement strategies and producing the

⁵ Further guidance on PCMO role in contract management is provided in a separate Guidance Note

requirements (e.g. TORs, technical specifications), conduct the Bid evaluation process, contract signing and all post-contract award activities until the object of procurement is fulfilled, including any warranty obligations. The PM should also determine if, and to what extent, the involvement of other NRPB departments is required e.g. involving E&S during certain types of procurements like civil works etc.

Procuring Staff Member

An NRPB staff member assigned by their manager to perform procurement actions in accordance with the Procurement Manual. Procuring Staff Members may carry out all steps of the selection process within their defined authority. Where the Procuring Staff Member is not a staff of NRPB's Procurement Department, any procurement action must be taken only after due consultation with, and concurrence of, the Procurement Department.

NRPB Support team

Support team members are involved in the procurement process through the processing of advices at different stages e.g. collecting signatures on minutes of public opening, issuance of Notifications of Intention to Award to bidders, or contract signing.

NRPB Management

Director of NRPB or (if delegated) the Director of Operations are the only authorized representatives who may sign contracts or otherwise legally commit the NRPB.

Section 4. Procurement Process Overview

The procurement process can be broadly defined as the process that starts with the identification of a need and continues through the fulfillment of the need (including planning, preparation of requirements, Vendor selection, contract award and contract management). Therefore, procurement includes both pre- and post-award activities.

Each of these phases includes various steps, actions and decisions that involve various stakeholders, as summarized in the table below and further detailed in the following sections of this Manual.

Phase/Step	Actions/Decisions	Responsible Party	Outcome
Planning			
Identify the need	The object of procurement (WHAT) is identified according to NRPB's goals, budget and priorities	PGM or HOD; PM	Activity created in the Procurement Plan, ranked by priority
Develop strategy & Research the market	Potential sources are identified (WHERE FROM) Procurement approach is decided based on fit for purpose approach (HOW)	PGM; PM; Procurement Department	List of potential vendors; Procurement Strategy (if required)
Develop requirements and selection criteria as well as selecting the Evaluation Committee	Detailed requirements are prepared (WHAT exactly) Clear selection criteria are defined based on the procurement approach and market research	PGM; PM; Procurement Department	Specifications/ TOR/ Employer's Requirements; Purchase Requisition; Evaluation Committee appointed
Solicitation			
Invite offers	Appropriate solicitation documents are prepared and issued	Procurement Department	Solicitation documents published
Administer the process	Clarifications addressed and opening of Bids	Procurement Department	Pre-Bid meeting minutes, clarifications, and minutes of Bid opening meeting
Select Vendor	Offers are evaluated against the selection criteria	Evaluation Committee	Evaluation report with award decision
Prepare contract documents	Draft contract documents for signing	Procurement Department	Final contract documents
Sign contract	Initiate and finalize contract signature process	Procurement Department NRPB Director	Signed contract

Phase/Step	Actions/Decisions	Responsible Party	Outcome
Contract management/Implementation			
Implement contract	Ensure contract objectives are met Vendor performance is monitored Changes, claims and disputes are managed as per the contract	PGM PM; Procurement Department	Goods & Services delivered or Works executed accepted and paid
Contract close-out ⁶	Vendor and project team performance is evaluated Feedback is collected from beneficiaries/stakeholders Areas of improvement are identified	PGM; PM; Procurement Department	Contract closed, all payments made, securities returned and all claims settled Lessons learned

Procurement Objectives

Regardless of the type of procurement, there are 5 main objectives that must be achieved in any procurement. Their relative importance may vary from one procurement to another, but procurement professionals must always consider obtaining what is usually called the 5 Rights of Procurement, namely:

1. the right quantity
2. the right quality
3. the right price
4. (at) the right time
5. (at) the right place

All the procurement steps that were briefly described above must carefully consider the most appropriate balance between these 5 main objectives. The aim should be to optimize each of them, while being cognizant of the fact that striving to maximize one (e.g. quality) would almost certainly come at the expense of another (e.g. price). It is the duty of all parties involved in the procurement process (Project teams, procurement professionals) to plan, design and conduct their activities in a manner that would ensure successful achievement of all 5 Rights of Procurement.

⁶ Further guidance on contract close-out activities and responsibilities are provided in a separate guidance note

Section 5. Procurement Procedures

This section sets out the general procurement framework and the main procedures to be followed by NRPB staff in the conduct of procurement of Goods, Works or Services.

Eligibility

NRPB has no restrictions on the source of its procurements. However, NRPB may determine to restrict eligibility to national Bidders if approved by the Director of NRPB.

A source of procurement may be declared ineligible if an act of compliance with a decision of the UN Security Council taken under Chapter VII of the Charter of the UN prohibits any payments to that source of procurement whether country, person or entity.

Firms sanctioned under the United States Office of Foreign Assets Control (OFAC) or European Union sanctions lists are not eligible to be awarded any NRPB contracts.

NRPB shall not award a contract to any Bidder who has an actual or perceived conflict of interest in executing a contract with NRPB.

Local Procurement

If the local market of SXM can respond to the procurement opportunity, national advertisement and eligibility may be used if reflected in the PP and approved by the Head of Procurement (HoP).

Emergency Procurement Procedures

The Director of NRPB , on the advice or instruction of GoSXM ⁷, can activate the Emergency Procurement Procedures (EPP) measures, which shall apply for a period of up to 6 months as determined by the Director of NRPB on a renewable basis, following the occurrence of a crisis or emergency declared by the office of the Prime Minister.

These measures are intended to enable the NRPB and its managers to respond quickly and accountably, as required in each specific situation, to extraordinary requirements through increased flexibility such as piggybacking on any contracts already signed by other national or regional entities, direct contracting etc.

The use of EPPs is limited and requires approval from the Director of NRPB and all other situations of importance and urgency must be dealt with through the application of regular procurement procedures. Reasonable efforts should be made during an emergency to still follow a process wherein several offers are compared to ensure Value for Money. Due diligence will always remain

⁷ As described in the Guidance Note on Emergency Procurement Procedures

the responsibility of the PCMO in charge regardless of the declaration of emergency to ensure Value for Money and transparency.

Emergencies are defined as urgent situations in which there is clear evidence that an event (or a series of events) has occurred which imminently threatens human lives or livelihoods and produces disruption in the life of a community on an exceptional scale.

The event or a series of events can comprise any of the following:

- a) Sudden calamities such as hurricanes, floods, infestations, earthquakes and similar unforeseen disasters;
- b) Human-made emergencies resulting in an influx of refugees or the internal displacement of populations, or in the suffering of otherwise affected populations;
- c) Drought, crop failures, pests, and diseases that result in an erosion of communities and vulnerable populations' capacity to meet their basic needs;
- d) Sudden economic shocks, market failures, or economic collapse resulting in an erosion of communities' and vulnerable populations' capacity to meet their basic needs; and/or
- e) A complex emergency for which the government of the affected country has requested external support; and/or
- f) Other events that would fall under the definition of a genuine emergency situation.

Procurement Planning and Strategy

Procurement Planning

Effective planning is the key to optimal use of NRPB resources in its procurement as it can help determine the best timing for procurement activities, reduce inventory level, maximize cost effectiveness in procurement by aggregating demands from various internal departments into larger packages to achieve VfM and minimize repetitive procurement actions.

Annual Procurement Planning

The preparation of a Procurement Plan (PP) is mandatory and starts in parallel as NRPB initiates its annual budget exercise. The PP shall cover the same period of the annual budget.

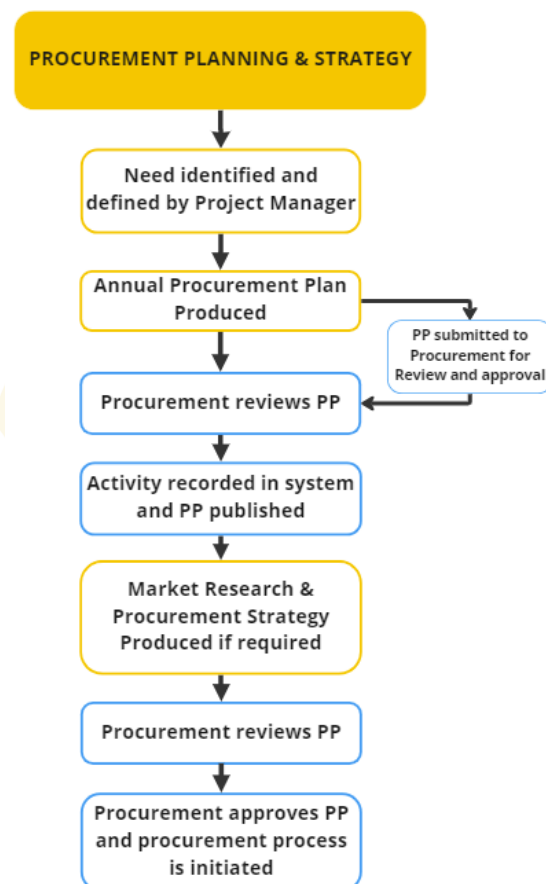
The scope of PP covers all procurement requirements, including corporate procurement. Each Program Manager, Head of Department and Project Manager should identify their needs and provide justifications for procurement based on their annual work plan and the budget allocated to the department and is required to prepare a PP for the department. The PP shall contain the following elements:

- general description of the procurement activity (types of Goods, Works, and Services and the related quantity if applicable);
- the date the specific Purchase Requisition is expected to be ready;
- the desired date of delivery of Goods, or commencement and completion of Works, or Services;
- the estimated cost (and confirmation of availability of budget); and
- the source of financing (e.g. IFI financing).

The Project Manager is required to finalize its PP after confirmation of annual budget allocation to the department and submits the PP to the HoP for approval. Once the PP is approved all activities should be recorded and the PP should then be sent to Communications who are responsible for its publication.

Market Research

Market research is the process of collecting and analyzing information about industry sector capabilities and overall market supply. It helps to identify Goods, Services, and potential Vendors,



assists in the development of technical specifications, TORs, SOWs and allows the collection of product and pricing information on available technology, solutions, etc.

Market research is an essential exercise conducted by the Project team (through the designated Procuring Staff Members) for all procurements (and forms part of the Procurement Strategy, if required), and is instrumental for any successful complex procurement process, particularly if the Goods, Works, or Services have not been procured previously.

Market research can be done using external and/or internal sources. Market research should not rely solely on any one of the sources below, as several such sources may be used in conjunction before deciding on the procurement approach.

The outcome of the market research, i.e., a list of suitable potential Vendors, types of products available, etc. should be documented in the procurement case file and shared within the Procurement Department.

The following external sources are valuable sources of information in the search for potential Vendors:

- a) Commercial/specialized journals and magazines.
- b) Chambers of commerce, trade delegations, embassies.
- c) Internet resources.
- d) Previous procurement strategies.
- e) End-users, clients.
- f) Business seminars, catalogs, professional journals, or trade publications.

Furthermore, care should be taken to ensure that micro, small and medium-sized enterprises (MSMEs), not-for-profit, minority-, women-owned businesses, and/or disability-inclusive firms are not excluded from the market research.

Any market reports or data gathered as market of market research should be saved and stored in NRPB's central market information folder.

Request for Information (RFI)

The RFI is an instrument to conduct a market survey to obtain information that can be used to identify available or potential Vendors to fulfil identified needs. RFIs may include information on technologies, cost and delivery times and are generally executed prior to finalizing the SOW, TOR, or technical specifications.

The information received in response to an RFI is not used for the purpose of qualifying potential Vendors. Primarily, it helps identify generic descriptions of available or potential alternatives for fulfilling a defined requirement or outcome, as well as the possible costs and delivery time.

The RFI is oriented toward seeking a technical alternative, option, solution, cost estimate, rather than a direct response in the form of an offer from the market or industry.

An RFI is an effective and efficient tool to help identify a possible solution for a specific requirement and to gauge the commercial environment for the requirement. RFIs are also used to identify potential Vendors. The RFI shall be advertised on NRPB's website, and in any other media considered appropriate by the PCMO. It should be advertised or distributed in a manner that, depending on the nature and complexity of the requirement, would lead to the most beneficial responses.

Project Procurement Strategy (PPS)

For procurements/projects that are determined to be high risk or of a complex nature, the HoP may require a PPS document to be produced by the PCMO in collaboration with the Project Manager. The PS should describe how the procurement will deliver the anticipated objectives and support the development of procurement procedures that are Fit for Purpose and reflect VfM through the application of the Core Procurement Principles.

The PPS should provide adequate justification for the selection methods in the PP. The level of detail and analysis in the PPS shall be proportional to the risk, value, and complexity of the procurement and should include detailed conclusions of the market research.

Requirements/Specifications⁸

It is the responsibility of the Project Manager/Head of Department to develop the requirements for the planned procurement and to produce the relevant specifications (including standard ESHS requirements where applicable), terms of reference, statement of work, Employer's Requirements etc. as appropriate, depending on the type of procurement.

Regardless of the type of procurement, it is important that the requirements are:

- Clear (unambiguous as to the object of the procurement)
- Comprehensive (include all relevant information that potential Vendors need to prepare their Bids)
- Up to date (contemporary, current technologies, methods, products etc. are required from the potential Vendors)
- Value-driven (emphasis is put on aspects that bring value, including sustainability where applicable)
- Realistic (the market can respond to the requirements)
- Reasonable based on the available budget
- Neutral and generally broad-based (unless specific brands/products are required e.g. for compatibility purposes).

⁸ Specific guidance on the types of requirements and on how to prepare them according to the type of procurement is provided through the Guidance Notes.

Purchase Requisition (PR)

A Purchase Requisition (PR) is an internal document prepared by the Project Manager/Head of Department that defines requirements and triggers a procurement process. The PR shall be prepared in line with the approved PP and within the budget allocated to the PP.

The PR shall include

- all information from the PP for the respective activity (updated if necessary)
- complete requirements/specifications
- qualification and evaluation criteria, weightings and scores.

The Project Manager/Head of Department sends the PR to the Procurement Department for review and comments and finalizes the PR based on comments received. Upon receiving the PR, the PCMO checks the PP to see if the submitted PR can be combined with other PRs to form a larger procurement package (e.g. with lots) or if it must be a package by its own.

Solicitation

Solicitation documents

Upon receipt of the complete PR, the PCMO prepares the appropriate solicitation document, with due consideration of the following:

- procurement type (Goods, Works or Services)
- procurement method according to the estimated cost and applicable thresholds
- type of requirements (TOR, SOW, technical specifications, Employer's Requirements etc.)
- adequate type of contract⁹
- adequate standard solicitation document.

The solicitation of Bids is the method used to communicate a procurement requirement and request an offer from potential Vendors.

Unless exceptions to the use of competitive methods of procurement are justified (see below), procurement contracts shall be awarded based on competition. It is the NRPB policy to procure Goods, Works, and Services through a competitive process to the maximum extent possible. Whenever possible and as informed by the market research/PS, competition should be international to provide a wide and diverse range of potential Vendors.

⁹ Guidance on the use of specific contracts by procurement type is provided in the Guidance Notes.

Exceptions to Competitive Bidding

Instances may arise when a non-competitive procurement process is justified, including without limitation if the procurement is time critical or an emergency, or when there is only one qualified potential Vendor. However non-competitive procurement should not be justified on the grounds of poor planning and in all cases must be approved by the HoP and DOO. Exceptions may be requested when one or more of the justifications listed under Direct Contracting below are provided by the PGM/PM/Head of Department.

Advertisement

NRPB procurements are open to competition from potential Vendors from all countries and advertisement through NRPB's website is the standard method for local and international advertising of procurement opportunities. International procurement opportunities must be advertised on International Platforms. If it is determined that this standard advertising method is either insufficient or ineffective, it may be augmented by placing specific newspaper or other traditional forms of advertisement in locations where potential Vendors are being targeted, or through social media.

Procurement opportunities shall be advertised with sufficient time for the potential Vendors to obtain the solicitation Documents as detailed in the following table.

If due cause exists, the HoP can authorize a shorter advertisement period. However, the PM/HOD must justify the decision for waiving the minimum period requirement. The justification must also confirm the availability of the evaluation team members immediately after the end of the procurement period. Such justification note must be included in the procurement case file.

Procurement Method	Requirement	Minimum Period (in calendar days)
RFQ	All	10
RFB	Goods	30 (20 days without the requirement of samples)
RFB & RFP	Works or Services	30

Cancellation of the Procurement Process

NRPB reserves the right to cancel a procurement process without recourse, at any time during the procurement process and prior to contract award. The PCMO may recommend that procurement be cancelled under any of the conditions listed below:

- a) The basis for the original procurement no longer exists or it is no longer in the best interest of NRPB to award a contract.
- b) Insufficient funding is available to cover the cost of the lowest Bid.

- c) Integrity concerns.
- d) Lack of competition.
- e) The specification is substantially revised.

When a procurement is cancelled, the PCMO must provide written notification to all participating Bidders.

Request for Expressions of Interest (REOI)¹⁰

A Request for Expressions of Interest (REOI) is an advertisement prepared by the PCMO, to identify potential Vendors that may be interested to participate in the selection for Consulting Services. Potential Vendors are requested to express interest by a specified deadline by submitting the detailed information requested in the REOI, for example, to demonstrate experience and qualifications in provision of the relevant Consulting Services.

The information provided by interested potential Vendors is assessed, and potential Vendors are considered for inclusion on the short list. An REOI is a cost-effective method to identify suitable potential Vendors. However, it requires the allocation of additional time, as potential Vendors should be given a sufficient interval to respond to the REOI. Depending on the complexity and nature of the procurement, a recommended minimum of ten (10) working days should be granted for responses (Late submissions may be accepted at the discretion of the PM or HoP).

The REOI should be advertised or distributed as appropriate, in a manner that would lead to the most beneficial responses according to the nature and circumstances of the requirement, such as advertisement on NRPB's website or CARICOM and in local or regional newspapers, or in specialized journals and on UNDB for International advertisement.

Pre-qualification

Pre-qualification is a competitive method of assessing potential Vendors (usually for Works) against pre-determined criteria, and only those firms that meet established criteria are invited to submit a Bid. Therefore, pre-qualification exercises should be applied only in such instances where the need to limit the list of Bidders has been clearly determined, and when the procurement is not time critical.

The use of a pre-qualification exercise should be justified in the PP of the relevant procurement. Solicitation documents are issued only to potential Vendors whose capabilities and resources were deemed adequate against the pre-determined criteria.

Adequate time must be allowed for potential Vendors to prepare responsive applications. The period between the invitation for pre-qualification and the deadline for submission of a response shall be no less than ten (10) working days unless a written justification has been provided and approved by the HoP.

¹⁰ Specific guidance on the use of REOI and evaluation of EOIs is provided through Guidance Notes

Pre-qualification is recommended when:

- a) The high costs of preparing detailed Bids could discourage competition (such as custom-designed equipment, design and build projects, or specialized services).
- b) The requirement involves complex technical components for which the Vendor needs to have minimum technical capability and capacity to complete the Works to the required quality standard such as construction Works.
- c) As determined necessary to achieve the best outcome for the procurement process for highly complex or otherwise appropriate needs, subject to approval by the HoP.

The criteria for the prequalification, the process, and the staff involved in the pre-qualification evaluation shall be established before the prequalification is advertised.

Procurement Methods

Goods, Works, and Non-Consulting Services

Unless exceptions to competitive methods of procurement are justified, competitive methods of procurement must be used. The table below summarizes the five (5) primary procurement methods.

Procurement Method	Estimated Value (in thousands)	Requirement	Evaluation Method	Method of Submission	Public Opening
Shopping	≤ US\$ 25 for Goods/NCS ≤ US\$ 100 for Works	Off-the-shelf Goods, standard specification simple Non-consulting Services, simple Works	Lowest price, technically acceptable Bid	No requirement for sealed or password protected Bids	No
Request for Quotations (RFQ)	≤ US\$ 150	Goods, Works or Non-consulting Services that are off-the-shelf or clearly defined	Lowest price, technically acceptable Bid	No requirement for sealed or password protected Bids.	No
Request for Bids (RFB)	≥ US\$ 150	Goods, Works or Non-consulting Services that are clearly defined	Lowest price, substantially responsive Bid	Single stage one-envelope or single stage two envelope as per the PP.	Yes
Requests for Proposals (RFP)	≥ US\$ 150	Goods, Works or Non-consulting Services with complex	Cumulative weighted analysis	Single stage one-envelope or single-stage two envelope; or	Yes

Procurement Method	Estimated Value (in thousands)	Requirement	Evaluation Method	Method of Submission	Public Opening
		requirements that may be met in a number of ways.	Highest ranked Proposal	Two-stage (for complex, innovative, rapid technological advances), as per the PP	
Direct Contracting	≤ US\$ 150	See details below	Direct Award	No requirement for sealed or password protected Bids	No

Shopping

Shopping is a direct approach to suitable potential Vendors without advertising. Shopping is used for procuring readily available, off-the-shelf, or standard specification Goods or Non-consulting Services up to or equal to US\$ 25,000, or simple Works up to or equal to the value of US\$ 100,000.

Award is based on the 'lowest-priced, technically acceptable offer' and is approved by the PCMO, subject to the following conditions:

- a) Under no circumstances shall the requirements be split into multiple procurements or combined between RFQs and Shopping for the same or related requirement to avoid a competitive method of procurement.
- b) Shopping should not be used to buy Goods or Services that are recurring requirements in the procurement pipeline unless it is required to cater for unforeseen requirements or if NRPB stock is unavailable.

A minimum of three (3) quotations from potential Vendors must be obtained, via e-mail, in person, or from an online catalogue. If a minimum of least three (3) quotations is not possible despite best efforts, a written explanation of the reasons must be recorded for the approval of the HoP.

Quotations should cover price, quantity, quality (using generic specifications, unless authorized by the HoP), delivery place and time, warranties, after-sale support, and any other reasonable requirements, as applicable. In all but the most exceptional circumstances, quotations must be in writing from the potential Vendors.

Quotations should allow a like-for-like comparison to achieve VfM by selecting the lowest quotation. Cash advances should not be made. Advance payment terms should not be accepted unless normal commercial practice requires it.

Request for Quotations (RFQ)

An RFQ is a simplified competitive method of procurement. It is used for low-value procurements of simple, readily available Goods, Works or Non-Consulting Services (equal to or below US\$150,000).

RFQs are awarded based on the technically acceptable offer that is the lowest price and are subject to the following conditions:

- a) The requirement shall not be split into multiple procurements or combined with other RFQs or Shopping for the same or related, to avoid a more competitive method of procurement.
- b) The procurement can be advertised, or invitations shall be sent to a minimum of three (3) potential Vendors. Should it not be possible to invite three (3) potential Vendors, the reason must be recorded in writing and signed by the PCMO.
- c) RFQs must have a clearly defined submission deadline, which must be specified in the RFQ document and communicated to all prospective Bidders. Quotations in response to an RFQ must be received in writing at a centralized, dedicated e-mail address.
- d) Quotations should be included in the procurement files for monitoring and auditing purposes. Alternatively, quotations may also be filed electronically, e.g., in SharePoint, if monitoring and audit requirements are met.
- e) Should the RFQ process result in a contract value exceeding the threshold for this method of procurement, the PCMO shall consider and determine on a case-by-case basis whether to re-issue the procurement under the appropriate procurement method. If the final contract value exceeds the threshold by a significant amount, or if the contract is not urgently needed, preference should be given to rebid the requirement under the appropriate procurement method unless there are justifiable reasons not to rebid.
- f) Awards are made based on the “lowest-priced, technically acceptable offer” evaluation methodology.

Request for Bids (RFB)

An RFB is a competitive method of procurement where potential Vendors are invited to submit a Bid for the provision of Goods, Works, or Services. It is normally used when the requirements for Goods, Works, or Services are:

- a) simple and straightforward;
- b) can be expressed well quantitatively and qualitatively at the time of procurement; and/or
- c) can be provided in a straightforward way.

For procurements above US\$ 150,000, one of the two competitive methods of procurement (i.e., RFB or RFP) must be used unless there is an exception to the normal process. RFB can also be

used for lower value procurement equal to or below US\$ 150,000 if the PCMO determines it appropriate to the particularities of the requirement.

RFBs are awarded based on the “lowest-priced, technically acceptable offer” principle and are subject to the following conditions:

- a) RFBs must have a clearly defined submission deadline, which must be specified in the RFB document and communicated to all prospective Bidders. Bids in response to an RFB must be received in writing.
- b) RFBs are based on a two-envelope system, i.e., the financial and the technical components of a Bid are combined in one single document. RFBs are subject to the Bid receipt and opening procedures.
- c) An RFB can either define the minimum requirements to be met or outline a range of acceptable requirements. During the evaluation, a Bid is compliant based on pass/fail criteria.
- d) Awards are based on the lowest-priced, technical acceptable Bid evaluation methodology, including delivery terms, and any other technical requirements. However objective criteria can be assigned a monetary value for evaluation e.g., delivery and performance standards.

Request for Proposals (RFP)

An RFP is a competitive method used for procurement of Goods, Works, and Services when requirements cannot be expressed quantitatively and qualitatively at the time of procurement or for the purchase of complex Goods, Works, and/or Services where the requirements may be met in a variety of ways and, accordingly, an evaluation that takes into account non-price factors is most appropriate.

In this case, the solicitation documents describe the requirements for the Goods, Works or Services and request that potential Vendors submit Proposals with solutions and associated pricing for the Goods, Works, or Services that the NRPB is requiring.

An RFP is only required for procurement above US\$ 150,000 but can also be used for lower value procurements (if requirements are complex or if the PCMO otherwise determines it appropriate).

RFPs are subject to the following conditions:

- a) An RFP requests that Proposers submit a Technical Proposal that offers a solution to the requirements. Proposers are also to submit a separate Financial Proposal indicating all costs that the Vendor will charge in carrying out the Technical Proposal.
- b) In response to an RFP, potential Vendors must submit the Technical and Financial Proposals in separate sealed envelopes (two-envelope system) or separate password-protected files. The purpose of the two-envelope system is to make sure the technical evaluation focuses solely on the contents of the Technical Proposals, without influence from the Financial Proposals.

- c) RFPs are subject to submission, receipt and opening procedures, including the requirement for separate opening sessions for Technical Proposals and Financial Proposals (only for those whose Proposals that were deemed compliant after technical evaluation).
- d) The evaluation criteria are to be expressly stated in the RFP. Both the technical and the financial evaluation factors shall be described. Mandatory evaluation criteria (if any) must also be described.
- e) The weight of technical factors versus financial factors must also be indicated (e.g. rated criteria). Proposals are evaluated, ranked, and awarded according to the 'cumulative/weighted analysis' evaluation methodology, defining best value as the paramount overall benefit when considering technical and financial factors.
- f) The contract is awarded to the qualified Vendor whose Proposal is most responsive to the requirements of the RFP and offers the best value (technical and financial).

eAuctions

An Electronic Auction (e-auction) is a procurement auction performed electronically with the most common type of e-auction is a "reverse auction". The use of e-Auctions should first be approved by the HoP and HOO as per the DOA.

Consulting Services

Unless exceptions to competitive methods of procurement are justified (and approved by HoP), competitive methods of procurement must be used. The table below summarizes the six (6) primary procurement methods.

Procurement Method	Requirement	Evaluation Method	Method of Submission	Public Opening
Least Cost Selection (LCS)	Simple, routine assignments	Lowest price, technically acceptable Proposal	Single-stage, two-envelope	Yes
Quality and Cost-Based Selection (QCBS)	Complex services, clear TOR	Highest ranked Proposal	Single-stage, two-envelope	Yes
Fixed Budget Selection (FBS)	Simple, clearly defined services	Highest technical Proposal within the budget	Single-stage, two-envelope	Yes

Quality Based Selection (QBS)	Complex services, precise TOR difficult to define	Quality	Two-stage	No
Individual Consultants	Teams of experts are not needed	Quality	Two-stage	No
Direct Contracting	See details below	Direct Award	Two-stage	No

Least-Cost Selection (LCS)

Least-Cost Selection (LCS) is only appropriate for selecting Consulting firms for simple assignments of a standard or routine nature where well-established practices and standards exist. LCS is based on the financial Proposals from the consultants whose Technical Proposals have met the minimum technical requirements in the solicitation document.

Quality and Cost Based Selection (QCBS)

Quality and Cost Based Selection (QCBS) is based on the quality of the Technical Proposal and the cost of the services to be provided. This method is appropriate when the scope of work can be precisely defined and other requirements in the TOR are well specified and clear. Under QCBS, Technical Proposals shall be assigned a weight of 70% or more, while financial or cost Proposals are assigned 30% or less. However, the PCMO (in consultation with the Project Manager/Head of Department) may choose to use a different ratio depending on the complexity of the assignment and relative importance of quality.

Fixed Budget Selection (FBS)

FBS is a competitive process among shortlisted firms under which the selection of the successful Vendor considers the quality of the Proposal and the cost of the services. In the RFP, the cost of services is specified as a fixed budget that should not be exceeded. FBS is appropriate when the type of Consulting Service required is simple and can be precisely defined, the budget is reasonably estimated, and the budget is sufficient for the Vendor to perform the assignment. The RFP specifies the budget and the minimum score for the technical Proposals. The Proposal with the highest technical score that meets the fixed budget requirement is awarded the contract.

Quality Based Selection (QBS)

When using QBS, the Proposal quality is evaluated without using cost as an evaluation criterion. If the RFP requests both Technical and Financial Proposals, the Financial Proposal of only the highest technically qualified firm is opened and evaluated to determine the Most Advantageous Proposal. However, if the RFP document requests only Technical Proposals, the firm with the highest-ranked Technical Proposal is invited to submit its Financial Proposal for negotiations.

QBS is appropriate for the following types of assignments:

- a) complex or highly specialized assignments for which it is difficult to define precise TOR and the input required from the Vendor, and for which the firm is expected to demonstrate innovation in its Proposals;
- b) assignments that have a high downstream impact; and
- c) assignments that can be carried out in substantially different ways, so that Proposals will not be comparable.

Direct Contracting

NRPB mandates that procurement contracts are awarded through a competitive process to the maximum extent possible. However, instances may arise when a non-competitive procurement selection is justified. The Project/Program Manager, or Head of Department must seek HoP's and DOO's approval for Direct Contracting, using the Justification Form. Ex-post approval of Direct Contracting is not permitted.

Direct Contracting may be justified when:

- a) The Goods, Works, or Services are highly specialized and can only be obtained from one source.
- b) The procurement involves certain critical factors such as standardization or safety and the Goods, Works, or Services required for expansion, or repair or maintenance of an existing facility must be provided from the original Vendor.
- c) Works or Services to be undertaken are a natural extension of an earlier or ongoing contract and the engagement of the same Vendor will be more economical and will ensure compatibility of results in terms of quality. Normally, the additional contract value due to such re-engagement should not exceed fifty percent (50%) of the original contract value. As a matter of practice, such re-engagement should be anticipated in the original contract.
- d) Goods, Works, or Services are needed in emergency situations arising from natural disasters or a financial crisis or other sudden unpredictable events of national or regional consequence requiring immediate action for procurement; however, lack of or inadequate procurement planning cannot be accepted as justification for an emergency under normal circumstances.
- e) Piggy backing on similar process completed within 12 months period preceding the intended contract signature and as long as the identical contractual conditions apply to the new contract

Section 6. Solicitation Documents and Conduct of Procurement

The use of Standard Procurement Documents (SPD)

NRPB's Standard Procurement Documents (SPD) should be used when soliciting offers from potential Vendors through any of the competitive methods presented above. In the absence of NRPB SPDs, appropriate standard documents or templates shall be used, as approved by HoP.

The SPDs are templates that include mandatory requirements, terms and conditions customized to fit the specific requirements (Goods/Works/Services), according to the procurement method to be used.

The templates are to be completed with the details applicable to each procurement process. While the details and complexity of the solicitation documents may vary according to the nature and value of the requirements, each set of solicitation documents must contain all information and appropriate provisions that are necessary for Bidders to understand NRPB's needs and to prepare a competitive offer.

Solicitation documents must include all information concerning a specific procurement process and be as concise as possible. New requirements cannot be introduced, and existing ones cannot be changed after the solicitation documents have been issued unless amended through an addendum or amendment.

The standard sections and paragraphs of the SPDs including annexes, cannot be amended except where expressly indicated.

Solicitation documents usually consist of the following sections:

- a) Letter of Invitation
- b) Instructions to Bidders (including Data Sheet)
- c) Qualification and evaluation criteria
- d) Forms to be submitted
- e) Requirements
- f) Contract forms and annexes.

In some cases, the PCMO may alter the composition of some sections if, in their professional judgment, these changes help to provide a clear and complete description of the requirements and instructions to Bidders.

Communication with potential Vendors

All communications with potential Vendors must be in written form and well documented and a copy should be included in the procurement file. Communication is conducted only by the PCMO or the Procurement Assistants under the coordination of PCMO and is usually limited to those potential Vendors who registered for the respective procurement.

Clarifications to solicitation documents

NRPB shall respond to requests from potential Vendors for clarifications even if the solicitation document does not expressly provide for the possibility of requesting clarifications (e.g. RFQ or IC). Depending on the nature of the clarifications being sought by potential Vendors, the PCMO will provide the procurement-related responses and request the Project Manager/Head of Department to provide answers to technical issues. PCMO will consolidate all clarifications, which shall be issued in writing to all registered Vendors, without identifying the source of the request.

Amendments to solicitation documents

When it becomes necessary to change certain provisions in a solicitation document (either following requests for clarifications from registered Vendors or at NRPB's initiative), these changes are made only through the issuance of a written amendment to all registered Vendors.

Pre-bid meeting

As may be required by the nature and complexity of the assignment, (online) pre-bid meetings may be organized with registered Vendors. This is an opportunity for NRPB (through the Project Manager and the PCMO) to clarify or better explain technical and procurement aspects of the selection process, so that potential Vendors can submit well prepared Bids. Minutes of the pre-bid meeting are shared with all registered Vendors (not just with those who attended the meeting).

Site Visit

As may be required by the nature and complexity of the assignment, site visits may be organized for Works procurements. Attendance on site visits is usually optional for the registered Vendors, who may attend at their own cost. Site visits shall be organized at the same time with all registered Vendors who wish to attend (or split in series, if their number is too large). There should be no one-to-one site visits with just one registered Vendor (unless only one has registered up to that point).

All communications including clarifications or amendments, as well as the timing of the pre-bid meetings and of the site visits, shall allow registered Vendors sufficient time to request, receive and incorporate all relevant information in their Bids.

Submission of Bids

Offers must be submitted either in hard copy or electronically, in accordance with the instructions in the solicitation documents, before the stipulated deadline for submission. The integrity, transparency, and fairness of the procurement process must always be protected.

Upon receipt of offers, the PA must record the time of receipt and ensure that satisfactory evidence of the time of receipt is secured (e.g. hand delivery receipt signed by both parties, courier tracking information, electronic time stamp etc.).

The solicitation document shall indicate that late offers shall be, or may be rejected. The PA must submit immediately, for consideration by the PCMO and HoP, the relevant details of any late Bids and keep a record of the HOP's decision, which will subsequently be communicated to the Bidder by the PCMO.

PCMO shall take all necessary measures to ensure the confidentiality of the Bids received. A Bid that is inadvertently opened before the stipulated opening date and time shall be brought to the attention of the HoP and shall be noted in the procurement file.

For all procurements where the solicitation documents require public opening of offers (Bids or Technical Proposals), PCMO shall chair the (online) meeting and shall record all information required in the solicitation document. Minutes of the public opening shall be shared with all registered Vendors.

NRPB may engage independent Probity Assessors to be present during different stages of the procurement process, including engagements/discussions with firms, Bid opening, evaluation, negotiations, contract award decisions, and/or contract execution.

Electronic submission

In the case of an electronic submission system, in the absence of a full-fledged e-procurement system, the quotes and Bids/Technical and Financial Proposals will be submitted to a dedicated e-mail address and will be password-protected. The solicitation document will indicate that passwords cannot be submitted to the same e-mail address, but to the Probity Assessor. Failure of any Bidder to comply with the requirements may result in the rejection of their submissions.

If separate Financial Proposals are invited, only the Financial Proposals of the Bidders who passed the minimum technical score shall be opened in public meeting (which will follow the same procedures as the opening of the Technical Proposals).

Procurement Evaluation¹¹ and Review

Procurement evaluation and review is the process of assessing and comparing Bids in accordance with the evaluation methodology and criteria stated in the solicitation documents. The aim is to determine the offer that best fits the evaluation criteria and thus represents best value for NRPB. An objective, fair and well-executed evaluation process is critical as it results in a recommendation for award of contract. In general, NRPB evaluates all Bids/Proposals based on the principle of VfM, i.e., the ideal combination of technical and financial factors. VfM can include the price, life-cycle costs, and transaction costs of acquiring, using, holding, maintaining, and disposing of the Goods or Services to the extent practicable, if specified in the solicitation documents. It may also take in consideration non-cost factors such as fitness for purpose, quality, service and support, and social and environmental benefits.

Upon receipt and opening of Bids, the evaluation of offers must be conducted according to the evaluation criteria and method defined during the preparation of the solicitation documents and clearly established in these documents.

Under no circumstances can new or revised evaluation criteria be introduced during the evaluation of offers nor can the method of evaluation be changed.

Changes/clarifications to Bids

Bidders are not allowed to change the substance of their Bids after they have been opened. However, clarifications that will not materially change the substance of the Bids may be requested by NRPB for the purposes of evaluation, within the limits stipulated in the solicitation document.

Only the PCMO shall be authorized to seek clarifications from Bidders during evaluation. The PCMO shall apply professional judgment as to when clarification is warranted and when it is not. On the one hand, it is in the interest of the Organization to ensure that as many offers as possible are compliant with the needs of the NRPB for effective competition. On the other hand, the principle of fairness to Bidders that presented clear and timely offers must be observed.

Clarification requests should aim to:

- a) Clarify ambiguous aspects of a Bid;
- b) Modify minor mistakes or oversights in Bids;
- c) Ensure that administrative errors do not cause the disqualification of an otherwise potentially good Bid;
- d) Rectify statements made in the offer that do not reflect the spirit of the solicitation documents; and

¹¹ Detailed guidance on the conduct of evaluation is provided in the Guidance Notes

- e) Request missing historical information (prior to the submission of Bids) that does not provide the Bidder with an unfair advantage or allow them to change the substance or price of their Bid.

Clarifications should not result in changes in the prices offered or content of the Bid.

To ensure that clarifications remain focused on specific aspects and do not become overly general, a limited time to respond should be given to the Bidder. In no case should the Bidder be allowed more than five (5) business days to respond to the request for clarification. Should the Bidder respond after the deadline set by the PCMO, their response should generally not be taken into consideration unless exceptional circumstances apply.

Clarifications should be sought and received via formal communication since they will become part of the Bidder's offer. Any communications with Bidders during the procurement process shall be done exclusively through the Procurement Department and must be kept in the case file.

Evaluation Report and Recommendation

The results of the technical and financial evaluation shall be documented in an evaluation report. The level of detail of the evaluation report should be commensurate with the complexity of the process. Although the use of evaluation tables is best practice, it is not mandatory for non-competitive methods of procurement, such as RFQ.

The report shall describe the application of the evaluation criteria. This should include narratives for each criterion evaluated, whether scored or assessed on a pass/fail basis, strengths and weaknesses of each Bid that would justify the outcome of the evaluation. The narrative must sufficiently outline the rationale for the decision taken by the evaluation team.

The recommendation for the award shall contain a summary of the evaluation process, as well as details of the evaluation steps performed and key criteria therein (i.e., preliminary examination, technical and financial evaluation).

Any rejection, non-compliance, and clarifications of offers must be clearly stated, including a list with the final ranking of the offers and the reasoning behind the selection of the winning offer. All unsuccessful Bids should be retained in the procurement file.

Contract Award

The Vendor is selected in accordance with the basis for the award as specified in the solicitation documents.

The PCMO must obtain concurrence from the Project Manager/Head of Department on the budget availability prior to award.

Review by the Legal Department is required for all contracts meeting one or more of the following criteria:

- a) Total contract value including options of greater than USD 250,000.

- b) Any other contract determined by the HoP to warrant such review (such as for certain single-source/sole-source procurements).

Once all the required internal NRPB clearances have been obtained, the PCMO prepares the appropriate contract based on the template provided in the solicitation document. These documents are reviewed, approved, and signed by the appropriate-level signature authority, as specified in the DOA, “Procurement Authorities and Responsibilities” and then forwarded to the selected Vendor.

Contracts shall be awarded within the Bid validity period. If it is not possible to award the contract within the original period of Bid validity, an extension of the validity period must be requested from all Bidders. A Bidder may refuse the request without forfeiting its Bid security. Bidders agreeing to the request will not be permitted to modify their Bids but will be required to extend the validity of their Bid securities (if applicable) for the period of the extension. Extensions should be requested as early as possible to allow Bidders sufficient time to produce a new valid Bid security before the expiration of the original. A note must be kept in the procurement file for future reference, including the signed award decision or the justification not to award, as applicable.

For cases reviewed by an evaluation team, minutes of the relevant evaluation team meeting and signed recommendations by the Project Manager must be kept in accordance with established records policy.

Publication of Contract Award

The NRPB posts on its website information about all awarded contracts resulting from competitive methods of procurement.

The PCMO shall ensure that the Contract Award Notification is published within seven (7) days of award. The contract award notice should include the following information.

- a) date of award.
- b) name of the Vendor to whom the contract was awarded.
- c) object of the contract (short description and classification).
- d) contract amount.
- e) procurement method used.
- f) number of Bids, Proposals or quotations received.
- g) contract identification number/letter.

Debriefings

The NRPB offers Bidders who participated in procurements resulting in awards above US\$ 200,000 an opportunity to obtain additional information on their unsuccessful Proposals or Bids through the debrief process described below.

The purpose of the debrief is to discuss the unsuccessful Bidder's submission in response to the Solicitation documents and the applied evaluation process and procedure. It is not a forum to discuss the submissions of other Bidders. In addition, it is not a forum for other issues or complaints, which the Bidder may raise according to the complaint's procedures as detailed in Section 7.

The scope of the debrief is to identify the strengths, deficiencies, or weaknesses of the Bidder's Bid/Proposal. Debriefings do not discuss the following:

- a) Trade secrets or other proprietary information, including the methodology or approach of other Bidders;
- b) Financial or cost information about other Bidders;
- c) Other Bidders' details.

An unsuccessful Bidder may request a debrief in writing within a period of ten (10) business days after receipt of the Notification of Intention to Award. Upon timely receipt of such request, the NRPB will notify the Bidder of the scope of the debrief as well as the date, time, and place for the debrief. A debrief is a one-time event. Bidders will receive only one debrief per eligible procurement. This will normally last for a maximum of up to one (1) hour, and no follow-up debriefs will take place.

The debrief meeting is generally conducted in person but can also be held via teleconference or videoconference. The debrief will be conducted in English, but translators and other special arrangements will be considered, if requested by the Bidder and deemed necessary by the NRPB, if the Bidder pays for any associated costs and arrangements. The letter/email of request for a debrief shall be addressed to procurement@nrpbxm.org

The PCMO will invite and inform the unsuccessful Bidder of the administrative details for the debrief. Should an invitation from the PCMO arrive later than ten (10) days after receipt of the request for debrief, the NRPB will ensure that a debrief is scheduled as a matter of priority.

Complaints

Bidders who have been formally debriefed and remain unsatisfied may file a complaint according to the procedure described in Section 8. Complaints Procedure.

Section 7. Contract Management

Acceptance

For supply contracts, NRPB Staff who receive Goods are required to check all Goods delivered against the contract and delivery documents, including verification that the serial numbers on the boxes and on the delivery docket match. Final inspection and acceptance of the Goods are the responsibility of the recipient. Discrepancies must be reported immediately to the Vendor in writing.

For contracts of Works, the Project Manager is responsible for supervising the implementation of the contract. For large and complex Works, the Project Manager may hire an individual consultant or Consulting firm specialized in the technical area of the Works to assist in supervising the implementation of the contract. In hiring such a consultant, the Project Manager shall rule out any possibility of conflict of interest.

For service contracts, the Project Manager is responsible for supervising the implementation of the contract and for accepting the deliverables.

Key Performance Indicators

Key Performance Indicators (KPIs) included in contracts are to be monitored during contract management stage. KPIs are essential tools to express and measure performance against agreed targets, and these are particularly recommended for complex contracts, including long-term agreements. These must be identified at the requirements definition stage, to be incorporated in the solicitation documents and then into the contract. This will enable monitoring of the KPIs at the contract management stage.

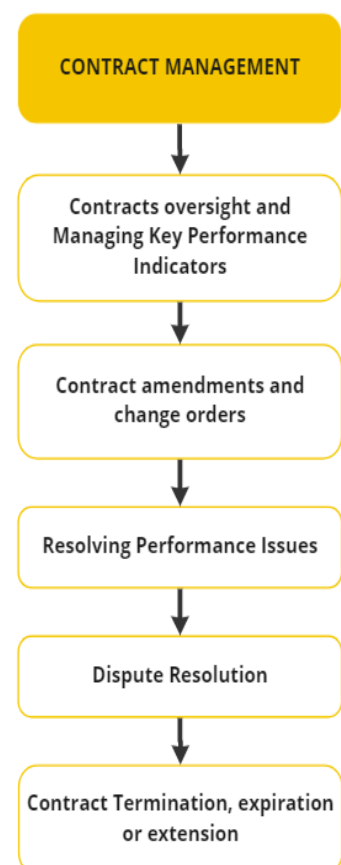
Examples of KPIs include:

Delivery/Performance

- a) Delivery of Goods/Services and completion of Works on time.
- b) Delivery of Goods/Services in full.

Quality

- a) Quality of Goods/Works/Services delivered (in accordance with specifications/TOR);
- b) Technical competence.
- c) Adherence to warranty provisions.



Communication

- a) Responsiveness of Vendor (requests, complaints, etc.).
- b) Appropriate handling and timely submission of documents (reports, invoices, shipping documents, etc.).
- c) Introduction of innovative solutions.
- d) Cost savings to the NRPB initiated by the contractor.

Compliance with Contract Requirements

- a) Environmental indicators (e.g., compliance with environmental principles to maximize resources efficiency and minimize risk, waste diverted from landfill via reduction in waste volume, periodic checks on chemicals being used and maintenance of records, reduction in packaging and avoidance of plastic packaging, proportion of recycled / recyclable / re-usable content, product reuse or take back, minimize use of hazardous substances, reduced air emissions, etc.).
- b) Labor indicators (e.g., compliance with minimum wage, etc.).

Best practices in setting up KPIs include:

- a) Determining KPIs during requirements definition stage.
- b) Ensuring KPIs are SMART (Specific, Measurable, Achievable, Relevant, Time-bound).
- c) When issuing the contract, Procurement and Contract Management Officers ensures inclusion of KPI targets, as well as performance credits associated (where possible) with such KPIs.

Contract initiation and contract closing

For a successful contract implementation, it is important that the Project Manager very closely watches the steps on initiation of contracts, monitors the contract using Project Management Software also through regular meetings with the contractor as per contract provisions. But most importantly, the contracts are required to be closed in a methodical way, where the contracting parties have fulfilled their respective obligations and there are no claims or disputes. Further details are provided in the guidance note on contract initiation and contract closing.

Contract Amendments and Change Orders

During the implementation of the contract, unexpected event or requirement may cause a need for modifying the supply requirements, statement of work or requirements for services, or the terms and conditions, terms of payment of the contract. Unless the standard contract provides for other review and approval mechanism (e.g. FIDIC contracts), any such modifications shall be

made in writing in the form of a Contract Amendment, to be signed by the same parties who signed the Contract.

In collaboration with the PCMO, the Project Manager prepares a draft Contract Amendment which will be reviewed and finalized by the HoP and cleared by Director of NRPB. The HoP submits the Contract Amendment for approval as per the DOA. After approval, the HoP issues the Contract Amendment to the Vendor in accordance with the terms and conditions of the Contract.

If the changes results in cost increase, before issuing a Contract Amendment, the Project Manager must:

- a) Get confirmation that the change in supply requirements, or statement of work or requirements for services has been approved by the Program Manager and budget is available for covering the additional cost.
- b) Confirm that the Vendor's performance is satisfactory.
- c) Be satisfied through a comparative cost estimate (benchmarking) jointly undertaken by the PCMO and Project Manager that the prices after the Contract Amendment are still competitive and/or are less than the cost for NRPB to rebid the contract through a competitive process.
- d) Obtain approval as per the DOA.

During the execution of the contract, changes/variations may be required to the Works due to various reasons. Such changes are executed by a change or variation order, provisions for which are made in the conditions of contract and are justified in the progress reports of the project. Price increases resulting from change orders should not exceed individually or in aggregate fifteen (15) per cent of the original contract price. If price increases exceed individually or in aggregate fifteen (15) per cent of the original contract price, the Project Manager shall provide the HoP with an explanation and justification for the increase(s) and seek approval from the Director of NRPB. A copy of all change orders to the Works shall be kept in the procurement file.

Resolving Performance Issues

When a performance issue arises during the implementation of a Vendor's contract, the Project Manager should immediately notify the Vendor of the issue according to the Contract, describing the areas of the Vendor's performance observed as unsatisfactory; reiterating the performance levels required in the contract; and requesting remediation of the failures in performance. The Vendor is requested to acknowledge the Project Manager's notification in writing and take immediate measures to improve performance.

If the Vendor has not taken adequate measures to improve performance, the Project Manager will enforce any applicable Contract mechanism, including requesting the HoP to issue a warning letter to the Vendor informing its intention to terminate the contract if the performance is not improved.

All communications between NRPB and the Vendor on performance issues should be documented and kept on file.

Dispute Resolution

If a dispute arises during contract implementation, the Project Manager should communicate or meet with the authorized representative of the Vendor to discuss the dispute and resolve it in an amicable manner according to the provisions of the Contract.

If the dispute cannot be resolved despite all the efforts made, the Project Manager shall request the HoP to review the situation and intervene or negotiate with the Vendor for a settlement of the dispute. The Legal Department should be consulted at this stage.

If neither the Project Manager nor the HoP can resolve the dispute, the HoP should seek the Legal Departments opinion on the course of actions to be taken next. Arbitration is the last recourse for dispute resolution and should be pursued with in consultation with the Legal Department and in accordance with the arbitration clause in the contract.

Contract Termination or Closure

Procedures for contract termination are stipulated in each contract and must be strictly adhered to, to terminate the contract and to protect NRPB's rights under the Contract. The Project Manager must contact the Procurement Department when events that could ultimately lead to a termination of a contract have occurred.

For terminating a contract, the Project Manager should include instructions to the Vendors in accordance with the termination clause in the contract on actions to be taken by the Vendor within the time period before the termination date indicated in the termination notification.

Contract Expiration

Where the contracts stipulate an end or expiration date, the contractual relationship between NRPB and the Vendor ceases. Should there be a requirement for the Vendor to perform beyond the stated contract end date, the Project Manager must contact the PCMO prior to the contract expiration to prepare a Contract Amendment to extend the contract. Project Managers must submit any request for Amendment at least 15 business days prior to contract expiration to allow the PCMO to issue a Contract Amendment and the Vendor to accept the changes.

Unscheduled Contract Extension

Requests for extensions beyond the contract end date must be justified in writing by the Project Manager if the extension poses a financial or reputational risk to the NRPB; if it is longer than six

(6) months, and/or if it would result in the contract value increasing by more than twenty (20) percent of the original contract value.

Invoicing and Payments

The Project Manager has the responsibility to inspect, accept, verify, and authorize payment to the Vendor. For Works contracts the supervising consultant is required to certify payments to the Project Manager.

Upon receipt of proper invoices, NRPB will pay Vendors at the prices/rates stipulated in the contract, for Goods delivered and accepted or services delivered or rendered and accepted, minus any deductions provided in the contract such as liquidated damages or other deductions.

It is NRPB's policy ordinarily to pay invoices within thirty (30) calendar days of receipt and acceptance, unless the invoice is determined to be defective (that is, missing required information to preclude processing); the Goods or Services being billed have not yet been received and accepted by NRPB; there is a disagreement with the Vendor over compliance with a contract requirement; or billing errors are identified on the invoice. Invoice errors and order deficiencies should be brought to the Vendor's attention immediately. Payment should only be made after submission by the Vendor of a complete and correct invoice. Advance Payment may be approved by the DOO on the advice of the HoP.

Payments to Vendors shall be made in accordance with the terms of payment in the contracts. The Project manager shall be responsible for verifying the Vendor's payment claims in accordance with the terms and conditions of the contract.

The Project Manager shall verify the invoice in accordance with the terms of payment in the contract, obtain approval for the payment in accordance with NRPB payment guidelines and process payment to the Vendor accordingly.

For payments subsequent to a Contract Amendment with significant increase in contract price, the Project Manager shall ensure that the Vendor has submitted a guarantee document (such as performance security/performance bond) as appropriate in accordance with the terms and conditions of the contract.

Maintenance of Procurement Files

The PCMO shall maintain a record of the procurement proceedings which must be kept for a minimum of ten (10) years which should include:

- a) A brief description of the Goods, Services, construction, or Consulting Services to be procured.
- b) Internal budget estimates

- c) The names and addresses of Vendors that submitted Bids, Proposals, or quotations, and the name and address of the supplier or contractor with which the contract is entered into and the contract price.
- d) Information relating to the qualification, or lack thereof, of Vendors that submitted Bids, Proposals, offers or quotations.
- e) The price and a summary of the other principal terms and conditions of each Bid or Proposal.
- f) The means used to solicit Vendors and a record of any such advertisement.
- g) The time and place for the opening of Bids.
- h) The names of the Vendors or their representatives or members of the public attending the opening of Bids or Proposals.
- i) The form of Bid and those pages containing the original BOQ for construction.
- j) The fully executed contract documents and Amendments including any annex
- k) Records of any claims and/or variation orders
- l) The contract completion documents:
 - a. Goods: Signed proof of delivery confirming receipt of the goods as per specifications and other documents specifically required in the Contract e.g. operation and maintenance manuals etc.
 - b. Services: Deliverable acceptance reports
 - c. Works: Practical completion certificate, Defects liability completion certificate, final statement of accounts and other documents specifically required in the Contract e.g. as-built drawings, CESMPs etc.
 - d. All invoices and payment certificates.

Section 8. Complaints Procedure

Right to Complain

Any Vendor who claims to have suffered, or who may suffer, loss or damage due to a breach of a duty of the Contract, may complain in accordance with these provisions.

The following shall not constitute valid grounds for a complaint:

- i. refusal to short-list an applicant in response to an REOI or pre-qualification; or
- ii. a decision by NRPB to reject all Bids, Proposals or Quotations.

If the procurement proceedings have not led to an effective contract, the complainant shall:

- i. in the first instance, submit its complaint for consideration by the HoP; and
- ii. where the complainant is dissatisfied with the response to the complaint or fails to receive a response from NRPB within the time limit mentioned below, the complainant may complain to the Complaint Review Committee in accordance with the procedure set out below.

If the procurement proceedings have already led to an effective contract, the complainant may complain directly to the Complaint Review Committee in accordance with the procedure set out below.

Complaints shall be submitted within seven (7) working days of when the complainant became aware of the circumstances giving rise to the complaint or when it should have become aware of those circumstances, whichever is earlier.

Complaints to NRPB

Whenever a complaint is submitted to NRPB, the PCMO in consultation with HoP and DOO shall consider the subject matter of the complaint and decide whether to reject the complaint or to implement any corrective action to bring the procurement proceedings in conformity with the Manual. Within three (3) business days, the receipt of the complaint must be acknowledged in writing by email to the complainant. Within ten (10) working days of receipt of the complaint, the HoP shall issue a written decision to the complainant, stating the reasons for the rejection of the complaint or advising on the corrective action that has been taken.

If the complainant is not satisfied with the decision, or if the HoP fails to issue its decision within the required period, and the complainant wishes to pursue its complaint further, it must within three (3) working days seek review by the Complaint Review Committee in accordance with the procedure set out below.

Bidders may also submit general complaints (i.e., complaints not specific to the procurement process) to NRPB GRM (<https://nrpbxm.org/complaints-procedure/>).

Complaint Review Committee

NRPB shall establish a Complaint Review Committee to deal with alleged breaches of procurement rules. The Complaint Review Committee shall consist of the HoP, one member of the NRPB Management Team (Chair), and a Project Manager (or senior team member) from a different project than the one under which the complaint was submitted.

If a Vendor wishes to seek review by the Complaint Review Committee of any decision, it shall submit its complaint in writing to the HoP within three (3) working days of receiving such a decision.

The complaint must contain:

- a) an identification of the procurement proceedings against which the complaint is directed; and
- b) sufficient description concerning the alleged breach and the remedy sought from the Complaint Review Committee.

Upon receipt of the complaint the HoP shall pass over the complaint to the Chairperson of the Complaint Review Committee.

Promptly after receiving the complaint, the Chairperson of the Complaint Review Committee shall arrange for the Committee to meet. The Complaint Review Committee shall conduct its review proceedings in accordance with this Manual and with such detailed procedural rules as the Committee decides in the interest of giving a fair hearing to parties concerned, while at the same time observing the need for urgency.

The Complaint Review Committee may grant any of the following remedies:

- a) reject the complaint, stating its reasons and advising the HoP to continue with the procurement process;
- b) state the rules or principles that govern the subject matter of the complaint and instruct both parties to act accordingly;
- c) prohibit the HoP from acting or deciding unlawfully or from following an unlawful procedure;
- d) annul in whole or in part an unlawful act or decision by the procuring entity, other than any act or decision bringing the procurement contract into force;
- e) order NRPB to compensate the complainant for any reasonable costs incurred by the complainant because of an unlawful act or decision of, or procedure followed by, the HoP; and/or
- f) order that the procurement proceedings be terminated.

The Complaint Review Committee shall proceed urgently with the review of the complaint and shall make every effort to reach its decision within ten (10) working days from receipt of the complaint. If additional time is needed for the committee to review the complaint, the committee

will inform the complainant accordingly. The ruling of the Committee shall be communicated in writing to the complainant stating the reasons for the decision and any remedies granted. The ruling of the Complaint Review Committee shall be considered as final and not open to any further review.

Suspension of Procurement Proceedings

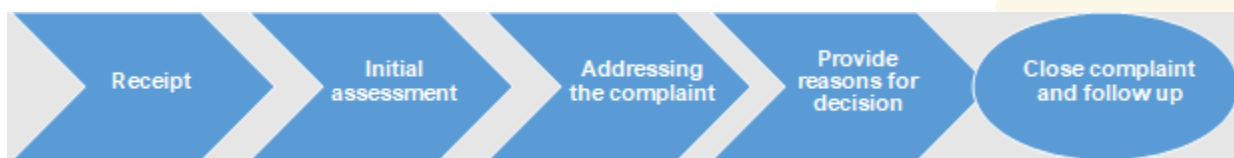
The timely submission of a complaint suspends the procurement proceedings until such time as either:

- a) the complaint is settled between the complainant and NRPB;
- b) a complainant not satisfied with the decision fails to submit its complaint to the Complaint Review Committee within the time period stated above;
- c) the complaint is dismissed or rejected by the Complaint Review Committee;
- d) the decision of the Complaint Review Committee has been announced and NRPB has taken any corrective action ordered by the Complaint Review Committee.

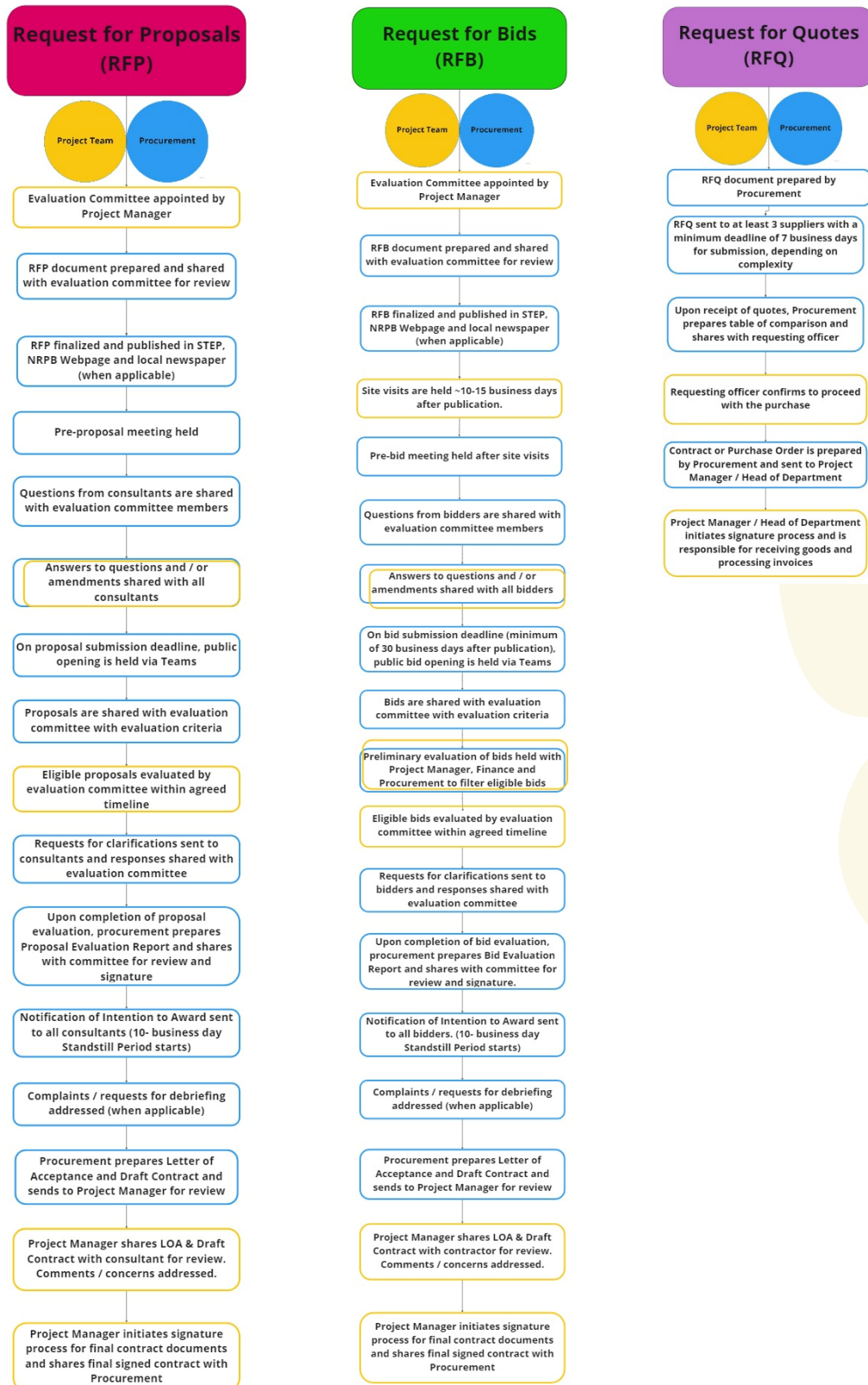
Upon receiving a complaint seeking review by the Complaint Review Committee, suspension will continue until it may be lifted on any of the grounds set out in the paragraph above.

The suspension shall not apply if the Director of NRPB certifies that public interest considerations require the procurement to proceed. The certification, which shall state the grounds for the finding that such considerations exist and there must be a record of the procurement proceedings.

Any decision by the PCMO or by the Complaint Review Committee in response to a complaint, and the grounds and circumstances thereof, shall be made part of the record of the procurement proceedings.



Annex 1. Process Flow Charts



Annex 2. Guidance Notes



Guidance Note – Sustainable Procurement

What is sustainable procurement?

Sustainable procurement can be defined as an approach whereby a procuring organization seeks to fulfil their needs for goods, works or services in a way that achieves Value for Money on a whole life basis in terms of generating benefits not only to the organization, but also to the society, while minimizing the impact on the environment.

Consequently, sustainable procurement must be based on three pillars, namely:

1. Economic
 - a. achieving Value for Money for the organization
 - b. fostering economic growth
 - c. developing the private sector (including SMEs)
2. Social
 - a. contributing to social and community development
 - b. combating discrimination, abuse and inequality
 - c. promoting health and safety
 - d. raising ethical, human rights and employment standards
3. Environmental
 - a. reducing demand for resources
 - b. promoting the use of renewable energy
 - c. protecting the ecosystem
 - d. fighting pollution
 - e. managing waste
 - f. fostering resilience

Sustainability considerations in procurement

Sustainability aspects intervene in all stages of the procurement, and it is important to carefully consider them from the early stages of the procurement process, as follows:

1. During the planning/needs assessment stage:
 - a. Review (or develop) the organization's sustainability policies and priorities
 - b. Understand the community needs and expectations (stakeholders, beneficiaries, affected groups and society at large)

- c. Assess environmental and social risks and opportunities for improvement
 - d. Identify (as part of the market analysis) any suppliers of sustainable goods, works or services
 - e. Determine the impact (administrative, cost etc.) of sustainability considerations as part of Value for Money analysis
 - f. Embed all findings in the PPSD
2. During the solicitation/selection stage:
- a. Determine the best approach to the market (type of selection method, type of SPD)
 - b. Determine the most appropriate type of specification (conformance, performance, hybrid), applicable sustainability standards/certifications
 - c. Develop relevant sustainability criteria (rated criteria, lifecycle cost etc.)
 - d. Design appropriate contract clauses on sustainability (including KPIs, bonus or incentives, value engineering)
 - e. Target relevant vendors
 - f. Evaluate bids (including alternative bids) based on the sustainability criteria
3. During the contract implementation stage:
- a. Monitor Vendor compliance with sustainability criteria and standards
 - b. Assess Vendor performance against KPIs
 - c. Implement grievance mechanisms and community participation
 - d. Assess sustainability outcomes and benefits achieved
 - e. Review effectiveness of sustainability monitoring and reporting
 - f. Identify lessons learned and incorporate findings in the next procurement processes

Sustainability considerations will be addressed by the Project team and PCMO, under the guidance and leadership of E&S Department.

Guidance Note – Emergency Procurement Procedure (EPP)

Approval of the Use of Emergency Delegation of Procurement Authority

Request for approval of the activation of Special Delegation for Emergencies must be presented by the HoP to the Director of NRPB and shall include the background information and justification for its use, as well as a description, approximate value, quantity, and requirements of the estimated procurement needs.

The approval for use of EPP is time-bound and limited to one or more clearly identified operations.

The EPP allows the conduct of procurement using RFQs and associated procedures.

Reporting and Monitoring

The HoP monitors the use of EPP and keeps a record of its use, which will be audited regularly.

The HoP shall submit a report of all procurement conducted under the emergency DOA every week from its issuance to the Director of NRPB. The obligation to report every week holds even if no purchases have been executed during the previous seven (7) calendar days. All cases exceeding the usually delegated authority of Director shall be submitted for review on an ex post facto basis.

Strategic Planning of Emergency Procurement

Emergencies are often caused by unforeseen events, and therefore procurement needs may change and cannot be anticipated. However, proactive measures can be taken to ensure preparedness to carry out emergency operations. Planning for emergencies is an important part of the NRPB regular procurement planning.

The following activities are examples of proactive measures that can facilitate EPP:

- a) Advance identification and registration of suitable Vendors of products frequently requested in emergency operations, including confirmation by Vendors of their willingness to respond to procurements on short notice;
- b) Development of standard specifications/TORs/SOWs for Goods, Works, or Services typically requested in emergency operations; and/or
- c) Establishment of framework agreements with Vendors of products typically requested in emergency operations and specifying in framework agreements the need for stock availability and emergency preparedness.

The NRPB will work continuously on the above to help ensure that the organization is prepared for emergency situations. To make strategic planning relevant, it is of the utmost importance that PCMOs involved in emergencies provide input and lessons learned after each emergency operation.

Emergency Procurement Procedures

During emergency operations, PCMOs may alter the regular procurement procedures as outlined in this guidance. When faced with an emergency procurement activity, PCMOs should, as feasible:

- a) Conduct backward planning, i.e., plan procurement activities starting from the time the Goods have to be delivered, counting backward to determine the maximum length of time required for each procurement step (procurement, evaluation, award, contract issuance, etc.);
- b) Determine proactively the likely availability of team members for evaluation; and
- c) Issue urgent notifications to relevant stakeholders involved in the process so that they can be prepared to respond faster.

EPP are less formal and offer more flexibility than the regular procurement procedures applicable in non-emergency situations. At the discretion of the HoP, more conservative procedures might be imposed through the issuance of written instructions. For example, this might include requiring the submission of offers to a secure email address.

Funds and Issuance of Procurements

In emergency situations, it may be necessary to initiate processes prior to funds being available.

Needs Assessment and Requirement

The assessment of the functions, performance requirements, characteristics, objectives, and/or expected outputs of the items to be procured are no less important when procured under EPP. To the extent possible, the regular procedures for requirements should be followed. However, since emergency procurement is often done under time constraints and the RFQ method of procurement allows more flexibility, less formality can be accepted for requirement definition in emergency situations. The following points should be considered:

- The use of brand names in requirement specifications, which is generally not allowed under the regular procedures, may be used in emergency procurement if it aids description of the required product. To avoid restricting competition, the words 'or equivalent' should be added unless a particular brand is required for standardization purposes. It should also be stated that the equivalent brand name products would be accepted.
- Product instructions and standard specifications/TOR previously developed and available; existing FAs can provide useful specifications and should also be checked for compliance with the current need. If FAs exist for the requested items, and the FA can adequately cover the need in terms of availability and delivery times, orders should be placed against the existing FA.
- Priority should be given to Vendors experienced in supplying in emergency operations to reduce lead times and the risk of contract failure. To comply with basic audit requirements, the procurement file must contain a brief explanation as to which Vendors were considered and why. In cases of high-value contracts, due diligence shall be exercised.

Advertisement

The timelines for advertisement of procurements under EPP can be reduced by 50% to enable NRPB to respond to the emergency in a timely manner.

Procurement Method

Under EPP, an RFQ may be used for the procurement of offers, regardless of the value of the procurement, and shall be deemed to be a competitive method of procurement. PCMOs should ensure competition by requesting at least three quotations, if feasible.

- a) RFQs can be used regardless of the value of emergency procurement. When using an RFQ in emergency situations, no absolute deadline or specific templates are required. However, Vendors should be given a realistic timeframe to respond to the request. The request should contain enough information to enable Vendors to give an informative quote, meaning all requirements should be communicated clearly and in the same manner to all Vendors along with the method of evaluation.
- b) If time allows, RFQs shall be issued by using the corporate templates, as this supports the transparency of the process by ensuring that all Vendors receive the same information at the same time.
- c) Additional Considerations of RFQs under EPP:
 - i. Additional Vendors may be added at any stage of the process (dynamic purchasing system).
 - ii. It is always advisable to check multiple markets for fallback options and to reconfirm availability before placing an order.
 - iii. The Vendor offering the lowest-priced, technically acceptable offer might not be able to supply all requested items or the full quantity requested. Therefore, the possibility and option to make split orders should always be made clear in an RFQ for emergencies. Split orders can ensure availability of all requested items and safeguard economy by placing a partial order with the Vendor offering the lowest price for the respective item. In cases where the full quantity requested cannot be provided by one Vendor, an additional order can be placed with the Vendor offering the second-lowest priced.

Opening Procedures

Submission of quotations

Depending on the situation, the NRPB may decide to only solicit submissions of quotations via electronic means. The RFQ issued by PCMOs will identify such mode of submission.

Public Opening

Depending on the situation, the NRPB may decide to cancel all public openings. In such case upon request from firms who submitted quotations, the NRPB will provide a summary information sheet (which includes the list of participating firms and the total price of each quotation) within thirty (30) days from the date of the opening.

Evaluation

Quotations received based on an RFQ during an emergency operation should be assessed against the requirements stated in the RFQ. At least two (2) individuals should be involved in the evaluation, one on the technical side and a PCMO on the financial side. Contracts are awarded according to the 'lowest-priced, technically acceptable offer' evaluation methodology, and an evaluation report should be prepared. When using this methodology, price serves as the overriding evaluation criterion upon which to award a contract. However:

- a) The RFQ modality allows selection of the most technically acceptable offer in cases where none of the offers fully meet the requirement specification (where regular competitive methods of procurement would require rebidding); and
- b) The selection of a Vendor other than the one offering the lowest priced option requires proper justification be documented and kept on file.

The following points should be considered:

- a) Whilst evaluation is conducted according to the 'lowest-priced, technically acceptable' methodology, even when no exact evaluation criteria are determined in the RFQ, the PCMO still have an obligation to present all competitors with the same information regarding the requirements, delivery dates, and any other factors that will be assessed during evaluation and selection.
- b) Delivery time should be considered when determining which quotation provides VFM due to need of urgency.
- c) With a lack of firm evaluation criteria, particular emphasis should be placed on creating a written record of the evaluation process and the justification for Vendor selection.
- d) The evaluation team shall have the right, for reasons of expediency and subject to equal treatment of bidders, to decide not to ask bidders for clarifications or missing documents.
- e) Given the time constraints and thus limited extent to which background checks can be performed, PCMO may request a performance security from the Vendor. The willingness of bidders to provide performance security is a positive indication regarding the financial position of the company. This is not a mandatory requirement.
- f) RFQs issued during an emergency operation constitute competitive methods of procurement. Hence, negotiations can be undertaken with a potential Vendor.

Contracts

Due to the risk involved, the procedures for contract preparation and issuance, as well as contract administration, remain the same as under normal conditions. Standard forms of Contracts are to be used when contracting Vendors during emergency operations. Each contract must be in writing and duly signed by the parties, as set forth in this Manual.

Contract Administration

Contract administration of emergency contracts is a combined responsibility of the procuring unit and the personnel responsible for emergency operations. Proper documentation of the

procurement process in the procurement file is required for each procurement exercise. The use of the EPP allows more flexibility in the procurement process than regular procedures. This increases the responsibility of PCMO, as well as involved managers, to document that the procurement has been conducted consistent with the procurement principles and other applicable NRPB rules and regulations.

PCMOs are required to ensure proper filing as it also protects the individual undertaking the procurement activity and ensures that actions can be justified to auditors. To document the EPP and to justify decisions and choices made when selecting the Vendor and awarding contracts, all steps in the process must be documented in the procurement file.

Guidance Note – Abnormally Low Bids

This Guidance Note relates to Abnormally Low Bids (ALBs) that arise when procuring Goods or Works. The purpose of this Guidance Note is to provide a structured approach to identify, clarify, and treat ALBs during the Bid evaluation.

Examples of how a Bid may appear Abnormally Low include:

- When it is compared with the cost estimate for the contract if there is no ability to compare market prices.
- When it is compared with all other Bids.
- When it does not appear to provide a margin for profit.
- Where the low price cannot be explained by, for example:
 - The economy of the selected constructions method, or
 - The technical solution chosen by the Bidder.

Solicitation documents for Goods and Works must contain provisions regarding the treatment of abnormally low bids during evaluation.

While it is expected that in all contract award decisions, the evaluation will undertake reasonable due diligence to ensure the Bidder can perform the contract, in the case of a suspected ALB, there is a requirement to undertake enhanced due diligence on the Bid.

The process of establishing whether a Bidder is capable to perform a contract within its total evaluated Bid price can be overly complex and subjective. If the Bidder is unable to show they can complete the contract for the Bid price, then the Bid must be rejected.

There are five steps to the treatment of an ALB:

- **Identify:** Identifies a potential ALB based on comparison with available prices from the market, or with the cost estimate.
- **Clarify:** Seeks clarification from the Bidder.
- **Justify:** Bidder prepares a justification of their price based on the request from NRPB.
- **Verify:** Fully analyses the Bidder's justification to verify if it is in fact an ALB.
- **Decide:** Fully documents the decision to accept or reject the Bid.

Identify

When the evaluation of Bids has been completed and the Most Advantageous Bid has been identified, if the ALB provision is included in the solicitation document then the PCMO must check if the Bid price is unreasonably low.

The identification of an ALB should be undertaken on the evaluated Bid prices of substantially responsive Bids only. There are two approaches to identifying a potential ALB depending on the number of Bids received

1. The Absolute Approach

Where fewer than five (5) substantially responsive Bids have been received, the 'absolute' approach identifies an ALB based on a comparison of the evaluated Bid price, and its constituent parts, with the cost estimate. If the Bid price is 20% or more below the cost estimate when fewer than five (5) Bids are received, then the Project Manager should clarify the Bid price with the Bidder to determine whether the Bid is abnormally low.

The identification of an ALB using a mathematical calculation assumes that the Bid prices are competitive, independent and there is no major market price volatility. That is, that there is not collusion in the market that is artificially keeping prices clustered.

2. The Relative Approach

The 'relative' approach uses a statistical calculation using at least five (5) substantially responsive Bid prices. A potential ALB is identified when the Bid is more than one standard deviation below the average of the substantially responsive Bids received. Outliers, i.e. Bids with prices that are significantly higher than the rest of the Bids received, should be left out of the calculation of the average and standard deviation.

Whichever approach is applied to identify a potential ALB, Bids should not be accepted or rejected without first clarifying the basis for the suspected ALB with the Bidder.

If a potential ALB is identified, the Evaluation Committee needs to make an assessment of the Bid in order to identify any parts that may have been grossly underestimated. Based on the findings from this assessment, a request for clarification from the Bidder on the elements that appear abnormally low should be sought.

Clarify

Once a potential ALB has been identified and if the evaluation team proposes to recommend award of the contract to that Bidder, the Project Manager must establish the capability of the Bidder to perform the contract within its total evaluated price.

Justify

The time allowed for the preparation and submission of the justification by the Bidder shall be determined with due considerations to the circumstances of the Goods and Works and the magnitude and complexity of the procurement. Bidders should be provided with a period of five (5) to ten (10) business days.

The Bidder's justification should include all information requested by NRPB and any documentary evidence that the Bidder used for determining its Bid price.

If the Bidder fails to provide the requested information within the period stated in the Solicitation documents or fails to provide all the information requested the Bid may be rejected at this point.

Equally, no Bidder shall be permitted by a client to withdraw its Bid or add any cost element when providing clarification.

The explanation provided by the Bidder may relate to issues like:

- The economics of the manufacturing process, of the services provided or of the construction method.
- The technical solutions chosen or any exceptionally favorable conditions available to the Bidder.
- The originality of the work by the Bidder (e.g. any proprietary method, process, material etc.).
- Compliance with applicable standards and obligations referred to in the Solicitation documents.

The Bidder's justification may include its estimate of labor requirements; sources and volume of materials, construction plant and equipment, transportation distances, etc. required for the performance of the part of the requirements for which the NRPB requires clarification.

The Bidder's clarification may also include a description of the nature of the Bidder's access to the proposed construction equipment e.g. hire, lease, purchase agreement, etc. and any documentary evidence that the Bidder utilized for determining its Bid price.

Verify

Once the Bidder's justification is received, it is essential that the information received is fully analyzed and takes account all evidence provided in response to the request for clarification.

The evaluation of the ability of a Bidder to undertake the contract at the price quoted in its Bid should focus on the price analyses of any or all the items to be performed or delivered by the Bidder or their sub-contractors, in combination with other elements of the Bid and their consistency with the Bidder's estimate of the resource inputs required.

If further clarification is required from the Bidder, this may be requested following the process outlined above. For several reasons, a Bid price which is below the cost estimate may not be considered abnormally low. For example:

- A Bidder's mobilization costs could be significantly lower if the Bidder already has an on-going construction contract underway near the proposed project site and could also benefit from economies of scale (for example, when procuring materials).
- A Bidder may be keen to enter a new market (e.g. in terms of country of operation and/or type of work) and takes the conscious strategic position to bid low, using a project as a 'loss leader'.
- A Bidder could have proposed a much more efficient or innovative method of working than other Bidders.

- A Bidder may be attempting to break into a collusive market (in such cases, the local market prices may be artificially inflated and therefore the estimate could make a competitive Bid look abnormally low by comparison.

Decide

Following verification of the Bidder's price analyses and detailed justifications, it should be determined if the Bid price, in combination with other elements is unreasonably low, to the extent that the Bidder has not demonstrated the capability to perform the contract successfully for the price submitted.

The decision to be taken will depend on whether the explanations provided, or the assessment of those explanations, demonstrate the ability of the Bidder to complete the contract as specified for the Bid price without compromising quality or diminishing the required output. There are three options:

- Accept the Bid, if the evidence supplied does satisfactorily account for the low level of prices and costs, in which case the Bid is not considered abnormally low.
- Accept the Bid but require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect NRPB against financial loss in the event of default of the successful Bidder under the contract. The amount of the performance security (including such increase) shall generally not be more than 20% of the contract price; or
- Reject the Bid, if the evidence supplied does not satisfactorily account for the low price or costs proposed.

If a Bid is rejected or if the Bidder fails to provide an increased performance security, a similar determination must be made for the next-ranked Bid. The contract may be awarded to the next-ranked Bidder, provided that the Bid is not determined to be similarly abnormally low. Should it be the case, the same treatment should be applied.

A potential ALB must not be rejected before completing all the five (5) stages above unless the Bidder does not provide the requested clarification in a timely manner and the Bid is rejected on that basis.

Guidance Note – Drafting Terms of Reference

What is a TOR:

- A systematic statement of all the requirements to be fulfilled in the performance of the services.

What is the purpose of the TOR (what do we want to achieve):

- During the procurement planning stage: to formulate/**define** all requirements (make sure we understand what we want);
- During preparation of solicitation documents: to **communicate** these requirements to the market (make sure the bidders understand what we want);
- During proposal evaluation stage: to provide the means to adequately **evaluate** the technical proposals (make sure the evaluators understand what we want, so that they select the best consultant for the job, based on how the bidders responded to our requirements);
- During contract finalization stage: to **document** the requirements in the contract (make sure the consultant is contractually bound by all requirements);
- During contract implementation stage: to have a **benchmark** against which to evaluate the consultant's performance (make sure the consultant's work is permanently judged by the yardstick of our requirements).

Why is the quality of the TOR important:

- The quality of the TOR is chronologically the first, and also the most important factor that ultimately determines the success - or failure - of a procurement process.
- Other important factors for a successful procurement, such as the quality of the market response, the thoroughness of the evaluation and the skilfulness of contract negotiations, depend largely on the quality of the TOR.
- Consequently it is critical to understand that any error, omission or weakness in the TOR would eventually cascade down and may end up severely undermining the outcome of the entire procurement process.

Structure of the TOR:

Background information

- Ensure that the context of the TOR is described so that a consultant can easily understand it. Emphasize how the assignment fits into the overall Project.
- Describe the history of the Project and the tasks already completed, if applicable.
- Describe how work carried out under this contract is linked and sequenced with work done by other consultants. Be explicit about required coordination with other consultants, contractors or government institutions.
- Identify other donors and stakeholders that are involved in the Project or could have an impact on the assignment.
- Include, when appropriate, an annotated list of the institutions, counterparts or stakeholders that the consultant will be supporting or interfacing with, so that the consultant can clearly understand the interactions and the full Project. Explain the relationships within and among these institutions for purposes of delivery of the services being supported. Do not assume that the consultant will intuitively know or understand this.
- Include any publicly available studies or references relevant to the work to be done.

Scope of Work

- Describe very clearly what services NRPB wishes to procure and for what purpose.
- Provide as much information as possible to describe NRPB's vision of the assignment.
- Consider that the TOR is going to be read by outsiders who have little or no knowledge of the Project but who are expected to propose a methodology and price for undertaking the assignment based solely on the information provided in the TOR.
- Do not be too vague in the description of the assignment, so that the consultants would be able to correctly understand the scope of work and propose an adequate methodology with concrete actions and outcomes (consultants should not have to guess what we actually want them to do).
- Conversely, do not be too "prescriptive" in the TOR and use restraint in defining the staffing requirements, in order to allow and encourage consultants to propose their own methodologies for performing the services and providing the deliverables.

Tasks, deliverables and reporting

- Ensure that tasks are clearly described and numbered, and deliverables are explicitly stated and linked with the respective tasks. Ensure that the proposed deliverables are within the scope of activities agreed with the Bank.
- Include a time period for the performance of the service and an anticipated timeline for submission of deliverables by the consultant.

- Where comments on interim deliverables are to be provided by NRPB or decisions are to be taken by NRPB affecting further work of the consultant, indicate such requirements and the timeframe for NRPB inputs.
- Be precise in defining those deliverables for which precise parameters are required (e.g. special surveys, mapping).
- Provide clear information about the approval cycle for the deliverables (how many days required for the review and submission of comments for draft and final versions, how many iterations of the same submission are acceptable etc.)
- If the procurement includes associated goods, include a full description of the goods and the performance standards or functions to be achieved. Be sure that the technical specifications accurately reflect the minimum requirements and do not favor a certain brand or unfairly discriminate against certain brands.
- When certain specialized goods like equipment or software should be purchased and/or used by the consultant in the performance of their services, make sure that the TOR clearly state what happens to those goods at the end of the assignment (does the consultant retain them, or transfer them to NRPB or a third party).
- Describe the language requirements during contract performance such as the language needs for staffing the working environment, giving oral presentations, and delivering interim and final reports.
- Describe types and numbers of reports to be produced, special formats, and software requirements (e.g., Excel spreadsheets, AutoCAD drawings). Draft reports could be requested in electronic format only, while final reports should be also submitted in hard copies.
- For assignments that require data gathering, clearly identify any data collection requirements: what data are needed; how frequently it should be collected; which units and definitions are to be used for indicators; and what measures or mechanisms should be employed to safeguard quality of data.

Resources to be mobilized by the Consultant

- Include a clear estimate of the amount of staff time, stated in workdays or work-months, needed to perform the required services.
- Include the required expertise needed and key personnel positions, with due regard to the nature and complexity of the requirements.
- Avoid to the extent possible lumping together types of expertise that are too varied or of a too specialized nature.
- Include the required staff qualifications, especially for key personnel.
- To the extent possible, indicate all potential types of expenditure that the Consultant would need to take into account.

Facilities or documents to be provided by NRPB

- Describe anything that NRPB will provide to support the assignment (e.g. existing studies, surveys, documents, counterparts, office space, office facilities, vehicles etc.) so that the consultant can properly prepare their financial proposals.

Payments

- The TOR should provide for a balanced payment schedule that takes into account at least the following factors:
 - a) It should be commensurate to the actual value that the respective milestone/deliverable brings to the Project, particularly when compared with the rest of the deliverables (e.g. inception reports should not carry the same weight as fully developed studies).
 - b) It should be equitable to the consultant in that it should reflect to the extent possible the anticipated level of effort and the resources committed by the consultant for that particular milestone/deliverable.
- Notwithstanding the above, the amounts and percentages allocated to each payment should be calibrated in a way that would keep the consultant interested in completing the assignment (front-loading of the payment schedule should be avoided).

TOR Checklist

- Once the draft TOR is prepared, make sure the document is reviewed with fresh eyes, to ensure that it fully covers all requirements and follows the structure presented above.
- Check if the TOR is:
 - ✓ Clear and unambiguous as to what is required from the consultant;
 - ✓ Concise in the sense that it does not provide superfluous information that is not relevant for the assignment;
 - ✓ Comprehensive in the sense that it didn't miss anything important and hasn't left the bidders guessing what they are required to do;
 - ✓ Compliant with all applicable guidelines, standards, regulations, accepted industry practices;
 - ✓ Expressed in a manner that is easily understood by the target bidders, including any specific technical language if applicable;
 - ✓ Up-to-date in the sense that current methods, models, software etc. are required from the bidders;

- ✓ Value-driven in the sense that emphasis is put on activities and deliverables that actually bring value to the Project (versus focusing on fruitless studies or researches that do not bring clear, measurable value);
- ✓ Biddable in the sense that any of the qualified bidders may prepare their technical proposals and size their financial proposals in an appropriate manner.

Guidance Note – Estimating Budgets for Consulting Services

Consulting services are the procurement category that poses the most significant challenges in making an accurate budget estimate. This note intends to provide guidance to the Project teams to better understand how to prepare realistic cost estimates; and to the PCMOs to better understand how to check cost estimates prepared by the Project teams.

What is a cost estimate and why is it important?

The cost estimate is first and foremost the basis of planning and budgeting for procurements. The accuracy of the budget estimate is critical for a successful and efficient procurement because it directly determines the procurement method, which in turn influences most of the procurement decisions – type of SPD to be used, complexity of bidding forms required from the bidders, qualification criteria etc.

Sources of Information

Historical Prices: for the purposes of consulting services, this refers to previous remuneration for consultant key staff in previous projects (preferably in SXM or the Caribbean region). These projects do not necessarily have to be technically similar – for example a Team Leader’s remuneration from a past project is likely to be relevant if the Team Leader positions have similar qualification and experience requirements, and if the key staff is expected to be local or hired from overseas.

Market Surveys: This involves a survey of the local or regional market to assess consultants’ technical capability, financial capacity and the ability to effectively field and replace professional staff. This is best done during the market research stage for the development of the PPSD.

Preparing the cost estimate (Project team)

The first and most critical input into the cost estimate is the TOR and its staff requirements. Once these requirements are well understood then the associated costs can be estimated with a higher degree of certainty.

Ultimately, the cost estimate = staff fees x level of effort + logistic costs.

To arrive at a reasonable estimate of both elements (staff fees and level of effort), the Project team should:

For the remuneration:

1. Identify all key staff, non-key staff and (to the extent possible) support staff needed for the assignment and determine (based on the nature of the assignment) how many of them are likely to be foreign vs. local (fees would be different between the two).

2. Estimate level of effort for each position (ideally task by task), taking into account how much would be home/office vs. field work.
3. Multiply the staff fees by the level of effort to get an estimate of the remuneration costs.

For the logistic costs:

1. Identify all categories of logistic costs (office, travel, accommodation, per diem, communications etc.). If a more accurate estimate for these costs cannot be made, then an amount of 40-50% of the total remuneration cost can be used as a proxy (of course, this amount would vary a lot, depending on the nature of the contract, number of trips required to the island etc.).
2. Estimate approximate unit costs for each of the above
4. Multiply quantities by estimated unit costs to get an estimate of the logistic costs.

Reviewing cost estimates (Procurement)

To ensure that the prepared cost estimates are accurate and consistent with the consulting assignment, the following should be taken into consideration:

1. Take each proposed task from the TOR and check how many key/non-key staff would be needed (look at the tasks through the consultant's eyes) to determine an approximate level of effort
2. Ask Project team (or check other consulting contracts) for going rates (fees) for similar positions
3. Multiply the level of effort by these fees
4. Add 50% to cover logistic costs
5. Check how this result differs from the cost estimated by the Project team

Important factors that may affect the budget estimate

1. Nationality of key staff (foreign vs. local)
2. Level of experience and expertise required
3. Location of work to be done (home vs. field)
4. Continuity of work (if sporadic, then more travel is usually needed)
5. Facilities to be provided by NRPB/client (e.g. office space, internet, etc.)
6. Tax exemption
7. Other administrative/bureaucratic requirements (e.g. registration, immigration etc.)

Other important factors to consider

- When developing the estimated level of effort, start from the needs of the assignment (bottom-up approach)
- Do not build the cost estimate based on the budget constraints (don't begin with the end in mind)
- The accuracy of the estimate will depend heavily on the quality of the TOR (the more detailed the tasks, deliverables and staff requirements, the more accurate the estimate)
- The higher the requirements for experience or academic degrees, the higher the fees of the consultants (for example, do not ask for Ph.D. unless it is critical for the assignment)
- Maintain a database of fees and logistic costs across various contracts, but bear in mind that changes occur in the market due to factors like inflation, economic cycles, technology adoption, shifts in skilled workforce, interest in a particular region, attractiveness of a particular domain etc. This is why it's important to constantly update the database.

Guidance Note – Importance of Accurate Cost Estimates in Civil Works

It is important that the Project Team in consultation with their technical experts prepare an updated cost estimate based on the final design and works requirements, Bill of Quantities/Activities as per the requirements of the solicitation document.

Having a proper, realistic cost estimate enables NRPB to develop a better understanding of whether the works are fit for purpose. Also, an accurate cost estimate is crucial in making an informed determination regarding abnormally low bids, and also in case of rejection of bids that are substantially above the cost estimates. An abnormally low bid is one in which the bid price, in combination with other elements of the bid, appears so low that it raises serious concerns as to the capability of the bidder to perform the contract for the offered price. Based on the *Guidance Note on Abnormally Low Bids*, where the number of responsive bids is 5 or less, the only way to identify an abnormally low bid would be through the “absolute” approach, which requires comparison with the client’s cost estimate.

Similarly, when there are budget constraints and prices are substantially above estimates, it is important to have a database to examine the reasonability of the price offered by the bidder before deciding on negotiations, rejection of bids and re-invitation.

The Project Team may consider preparing a data base on cost estimates of major and repetitive items of cost through continuous market research and updates to have a firmer basis on cost estimates (which would be relevant and useful also in emergency situations as contemplated by the Guidance Note on EPP).

Guidance Note – Evaluation Committees

- Upon notification of intent to launch a tender from the Project Manager to the PCMO (through the Procurement Requisition), the Evaluation Committee (EC) will be established by the Project Manager. To ensure efficiency, Committees will limit the number of evaluation members to the strict minimum (no less than 3 scoring evaluators) and will be composed as follows:
 - Chair (Project Manager or delegate) (May score or not, if not scoring additional subject matter experts have to be assigned)
 - PCMO (Secretary of the process but does not score) assigned by the Head of Procurement
 - Subject Matter Experts¹² assigned from within (or outside) the project team by the Chair.
- Evaluation Committee members will only be assigned upon confirming their ability and **availability to evaluate all aspects of the tender** within the set timeframe. In case of an external evaluator, a substitute/potential replacement needs to be assigned up front (and confidentiality agreement signed). The substitute evaluator replaces the external evaluator in case the primary is not able or available to evaluate all aspects of the tender within the set timeframe. The Chair, in consultation with the PCMO, may decide to replace the external evaluator with his/her substitute.
- The EC will be supported by the following advisors:
 - Environmental Specialist as assigned by the corresponding Coordinating Specialist or the Head of the E&S Department. For a tender of an environmental assessment, at least one environmental specialist is assigned as a scoring subject matter expert.
 - Social Specialist as assigned by the corresponding Coordinating Specialist or the Head of the E&S Department, for a tender of a social assessment, at least one social specialist is assigned as a scoring subject matter expert.
 - Legal (only when specific Legal perspective is deemed necessary by the Chair or PCMO)
 - Financial Management officer (only when FM perspective is deemed necessary by the Chair or PCMO)
 - Additional internal or external advisors may be identified by the Chair, in

¹² All personnel regardless of their team may be selected as a subject matter expert. In the event that a member of a Support Team is selected as a subject matter expert however, they will be required to evaluate the entire offer and not only their areas of specialization. In such a situation, they will not additionally act as advisor.

consultation with the relevant program manager and assigned PCMO. This especially applied for complex or highly specialized tenders.

- The advisors provide necessary input to the EC members on their area of expertise, which the EC members will take up in their evaluation. This input is for the strong consideration of the EC members. Any deviation from the advisors' recommendations will need to be adequately justified in the evaluation report. *NB: Specific technical expertise from other projects or alternates may be incorporated if at any moment the Chair determines the need for additional support, or any member of the EC becomes unavailable.*
- The PCMO will notify all EC members and EC advisors of their appointment by email, which will contain the following information:
 - Names of EC members and EC advisors assigned.
 - Tender process timeline (including timeline for draft bidding documents input)
 - Declaration of Confidentiality form (to be signed and returned by each EC member and EC advisor)
 - Instructions for Drafting of bidding documents (Sections where input is needed, timelines, guidance on drafting of bidding documents and evaluation criteria)
 - Link to all draft bidding documents folder (*Note: Access will be granted to EC members and EC advisors only after the Signed Declaration of Confidentiality is received by the PCMO*)
- The Committee members will acknowledge assignment by sending their signed Declaration of Confidentiality.
- EC members and EC advisors will review and provide required input on draft documents.
- The PCMO will finalize draft documents based on input provided and send them for final approval to the EC Chair.
- Once final approval is received from the EC Chair, the tender launch process will be initiated by the PCMO
 - For International bidding processes, the procurement assistant will launch the process in STEP and the Communications Department will publish the tender in all required media (Social media, NRPB webpage, local newspapers...).
 - For National bidding processes, the Communications Department will publish the tender in all required media after which the PCMO will launch the process in STEP
- After launching the tender, the PCMO will notify the EC, confirm the process timelines, and schedule to corresponding meetings (Kick-off). Evaluation Committee members should ensure and confirm availability for the Evaluation kickoff meeting which should occur immediately after the Opening meeting is concluded.
- Latest, one week before the scheduled opening, the Procurement Assistant will share the Video Conferencing link with bidders through the Tender Portal and via email to the EC Chair and probity assesor. After the opening, bids/proposals will be shared by the

Procurement team with the EC. (The EC must be represented at the opening only by the EC Chair and PCMO*).

* Note that the opening meeting is a public meeting of which the minutes will be made publicly available, including the names and positions of all its participants (including present EC members).

- The evaluation Kick-off meeting is conducted by the PCMO within 24 hours.
 - Detailed guidance on how to evaluate Bids/Proposals will be provided by the PCMO as well as timelines for completion of the evaluation
 - The committee will be given 'x' number of days to review the documents individually. This will be determined by the Chair in consultation with the EC, based on the quantity and average size of the bids/proposals after the bid/proposal opening. The Evaluation wrap-up meeting time and date will be set at this time.
- Each committee member evaluates all elements of the tender and provides scores. They shall make note of items that they consider to be relevant for discussion with the full EC. Only EC members have access to the full scoring sheet. Advisors do not have access to the full scoring sheet.
- The assigned advisors provide necessary input to the EC members on their area of expertise, which the EC members will take up in their evaluation. This input is for the strong consideration of the EC members. Any deviation from the advisors' recommendations will need to be adequately justified. Seeking advice from an Environmental and/or Social Specialist is mandatory for all works, design and supervision contracts, and any other tender with significant E&S implications.
- No later than two days prior to the evaluation wrap-up meeting, the EC members send their scoring and notes/considerations to the PCMO who will finalize the draft evaluation report. (The PCMO shall start drafting the Evaluation report upon concluding the kick-off meeting).
- The evaluation report draft is shared with the EC by COB the day prior to the evaluation wrap-up meeting. 1 business day block may be set aside for the evaluation wrap-up meeting to take place as a group. The Chair may decide to forgo the Evaluation wrap-up meeting in cases where no discussion or issues are identified in the individual evaluations.
- Upon conclusion of the evaluation, the PCMO will share the evaluation report with NRPB Support for signature by the members of the evaluation committee within 48 hrs. (NRPB Support should select the option for signatures to occur simultaneously). Once the evaluation report is finalized and signed, the PCMO will continue the process as required (e.g. scheduling next opening, sending Notification of Intention to Award and final contract draft)

Guidance Note – Evaluation of Expressions of Interest (Guidance for evaluators)¹³

1. Since this stage is a preliminary (less formal) stage of the selection process, EoIs submitted after the deadline may also accepted (up until the moment the evaluation committee makes a decision regarding the short-list).
2. Criteria to be included in the Request for EoIs should only refer to the firm, not to any key experts: core business of the firm, years of experience, similar contracts, technical and managerial capability of the firm, relevant experience in the region etc. Consequently, the scores allocated in the evaluation should focus on the firm, not on the individual key experts.
3. EoIs will be evaluated in accordance with the criteria communicated in the Request for EoIs, taking into account mainly the degree to which the experience and references of each firm are relevant for the respective procurement. We specifically target the existence of consulting contracts in the field or in similar fields, in relevant contexts (similar countries, similar beneficiaries), as well as their relevance from the point of view of the complexity of the services provided, the value and the period in which they were provided.
4. If the EoI is submitted by a group of consultants who have decided to share their experience and resources, the nature of the relationship between the companies constituting this group must be verified. As such:
 - a. if the firms submit the EoI in the form of a *joint venture, association, partnership or consortium* in which all members have equal rights and obligations, being jointly and indivisibly liable to the client for the provision of services, then the experience and references of all members will be taken into account in the EoI evaluation;
 - b. if the firms submit the EoI in the form of a partnership in which there are *sub-consultants*, the experience of such sub-consultants will not be taken into account in the evaluation of the EoI.
5. The purpose of the EoI evaluation is to identify the most qualified 5 to 8 firms or groups of firms (short list).
6. If a sufficient number of EoIs is not received to ensure a short list of at least 5 qualified firms, the client has the following options:
 - a. Re-publish the Request for EoIs notice, extending the submission deadline;
 - b. Identify other potential qualified companies by conducting additional market engagement;

¹³ This is intended to serve as a generic guidance to provide everyone involved an understanding of the process. It is not intended to account for every possibility or criteria used. Tender-specific requirements and parameters are to be discussed and agreed during the preparation of the solicitation documents and evaluation kick-off stages.

7. Individual consultants shall not be included in the shortlist when the selection of a firm is sought. Also, Government-owned enterprises and NGOs shall not be included in the shortlist, unless they operate as commercial entities.
8. The EoI evaluation report includes: the list of applicants; the evaluation of each firm, including the total score, the strengths and weaknesses of each; the final short list; clarifications requested and received during the process.

Guidance Note – Evaluation Criteria for Consulting Services (Guidance for Project teams)¹⁴

Background

This Guidance is intended for the use of the Project Team members in charge with preparation of Terms of Reference and evaluation criteria to be used in the selection of consultants. It is mainly focused on the QCBS selection method, but the same principles apply to virtually all types of consultant selection methods, as well as to the evaluation of Bids for goods, works and non-consulting services where rated criteria apply.

Critical things to remember:

1. Each evaluation criteria included in a solicitation document (RFP/RFB) shall be relevant to the nature and complexity of the assignment.
2. Do not "invent" evaluation criteria just for the sake of having more criteria. The number of technical evaluation criteria shall be kept to a minimum reasonable, so as not to dilute the significance of those requirements that are really important/relevant for the quality of the respective assignment. More criteria often means that each additional criterion becomes less and less relevant for the correct ranking of the bidders.
3. Key staff requirements: the higher your requirements for academic degrees, certifications etc., the higher the fees of the consultants – do not ask for Ph D or similar, unless this is critical for the assignment.

Criterion	Range	What we're looking for
Relevant experience of the firm	0 - 10%	<p>Similar services provided by the firm in the past:</p> <ul style="list-style-type: none">• Their relevance (from the point of view of the degree of similarity with the contract for which the offer was submitted; of the beneficiary of the respective services; of the geographical area where they were provided, etc.)• The value, duration and complexity of previous contracts• The degree of involvement of the company (sole or main provider, partner, sub-consultant, etc.)• Age and frequency of the respective contracts (a one-time contract a long time ago vs. multiple recent contract)

¹⁴ This is intended to serve as a generic guidance to provide everyone involved an understanding of the process. It is not intended to account for every possibility or criteria used. Tender-specific requirements and parameters are to be discussed and agreed during the preparation of the solicitation documents and evaluation kick-off stages.

Criterion	Range	What we're looking for
Methodology and work plan	20 - 50%	<p>The degree of understanding of the client's requirements, as presented in the Terms of Reference</p> <ul style="list-style-type: none"> • The level of detail in which the consultant's activities are presented in order to fulfill the tasks stipulated in the TOR (elaborate vs. copy/paste from the TOR); • Innovative approaches to some problems, which can bring additional benefits to the client; • Adequate identification of potential risks and clear suggestions for risk mitigation; • Proposals to improve the TOR for the benefit of the client; • The degree of coherence and logic of the proposed work plan (succession and planning of activities within each task); • Appropriate allocation of tasks between the proposed experts; • Allocation of sufficient time for each expert; • Appropriate skills mix; • Adherence to the client's estimates related to the number of experts and the amount of time required for each to fulfill the TOR tasks - or adequate suggestions for improving the distribution of the level of effort, to the benefit of the assignment;
Relevant experience and qualifications of key staff	30 - 60%	<p>Focus not only on qualifications, but most importantly on their adequacy for the assignment:</p> <ul style="list-style-type: none"> • Education (studies, trainings, certifications etc.) • Professional experience - both general and specific, in similar services; • Positions held during the career; • Work experience in/with the firm submitting the proposal; • Works experience in the country, in similar countries or similar environments; • Level of knowledge of the local environment, culture and fluency in the local language (or language of the contract); • Familiarity with the administration, government and national regulations; • The degree of involvement in the provision of similar services (from the point of view of the nature of the

Criterion	Range	What we're looking for
		services, the complexity and volume of work, of the type of client etc.)
Participation by nationals among Key Experts (if relevant)	0 - 10%	The ratio of the national Key Experts' time-input (in staff-months) to the total number of Key Experts' time-input (in staff-months)
Transfer of knowledge/training (if applicable)	0 - 10%	<ul style="list-style-type: none"> • The complexity and relevance of the proposed training program; • The level of details of the training plan; • The level of resources allocated to the training and knowledge transfer plan to the client's staff

Guidance Note – Evaluation of Proposals for Consulting Services (Guidance for evaluators)¹⁵

Background

This Guidance is intended for the use of the members of evaluation committees, as it covers aspects related to the conduct of evaluation of proposals (technical and financial) received for the selection of consultants. It is mainly focused on the QCBS selection method, but the same principles apply to virtually all types of consultant selection methods.

As proposals are received and technical proposals are opened, the evaluation committee shall meet, sign the Declaration of confidentiality/impartiality, gain access to the technical proposals, and start the process of evaluation.

Critical things to remember:

1. The evaluation of the proposals against the scored criteria¹⁶ provided in the RFP is only the final stage of the actual evaluation. The entire evaluation process looks like this:

Step	Type of Criteria	Determination/ verdict	When/What
Step 1. Administrative review	Process criteria	Pass / fail	Preliminary check at proposal opening to determine compliance with required procedures as per RFP (validity). Then further check of all forms at the start of the actual evaluation process.
Step 2. Qualification	Qualification criteria	Pass / fail	Must meet the minimum or mandatory set of qualification requirements in the RFP (refers to the consultant)
Step 3. Technical Responsiveness	Minimum requirements	Pass / fail	Must meet the minimum technical or performance requirements and standards (refers to the proposal)

¹⁵ This is intended to serve as a generic guidance to provide everyone involved an understanding of the process. It is not intended to account for every possibility or criteria used. Tender-specific requirements and parameters are to be discussed and agreed during the preparation of the solicitation documents and evaluation kick-off stages.

¹⁶ Detailed guidance on choosing the right scored criteria is provided separately.

Step 4. Qualitative	Evaluation Criteria	Scored and ranked	Proposals deemed to be technically responsive are evaluated against the evaluation criteria in the RFP
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2. No clarifications can be requested from consultants during evaluation (ITC 20.2: the Consultant is not permitted to alter or modify its Proposal in any way; the Client will conduct the evaluation solely on the basis of the submitted Proposals).
3. If a Consultant submits more than one CV per Key Expert position, the Proposal is rejected as non-responsive. Exception: Framework Agreements for Consulting Services, where we may allow multiple CVs for the same Key Expert position.
4. Each Technical Proposal will be evaluated solely against the criteria stipulated in the RFP. Proposals should not be compared against each other.
5. The quality of each technical proposal shall be judged based on the relative strengths and weaknesses of the proposal, which should be thoroughly documented - there should be strengths and weaknesses against each criterion and sub-criterion in the RFP. Consequently, the "narrative" part describing these strengths and weaknesses shall form the most substantial part of the technical evaluation report.
6. The scores given against each criterion/sub-criterion shall result from, and shall accurately reflect, the strengths and weaknesses identified in the narrative part (not the other way around; don't start with the scores and then look for strengths and weaknesses to justify the score).
7. Only the criteria and sub-criteria stipulated in the RFP can be used for evaluation.

Scoring methodology:

1. It is important that the actual methodology for scoring against each criterion/sub-criterion is clearly described in the RFP, so that there is no ambiguity and all consultants know what to expect.
2. A simple scoring methodology may look like this (assuming a minimum passing technical score of 70 points):

% of maximum number of points for the criterion/sub-criterion	Rating	Meaning
0	Very poor	No information provided; no determination can be made
0 - 49%	Poor	Some information provided, but not relevant to the criterion; substantial deviations/weaknesses
50 - 69%	Inadequate	Relevant information provided, but insufficient to meet criterion; weaknesses prevail over strengths

% of maximum number of points for the criterion/sub-criterion	Rating	Meaning
70 - 89%	Good	Requirements are fully met; strengths prevail over weaknesses
90 - 100%	Excellent	The requirements are greatly exceeded; only strengths

3. Each member of the evaluation committee shall individually
 - a. review the proposals;
 - b. assess their overall compliance and responsiveness to the TOR;
 - c. identify strengths and weaknesses;
 - d. score against each criterion/sub-criterion in the RFP.
4. If there are discrepancies between the scores allocated by different evaluators, all relevant aspects are discussed and scores may be revised.
5. In case of requests for debriefing or complaints, all information in the narrative part (strengths and weaknesses) of the technical evaluation report pertaining to the proposal in question is communicated to the respective consultant.

Financial evaluation

1. Again, as in the case of technical evaluation, the evaluation committee cannot ask clarifications from the consultants.
2. There is virtually nothing that can be changed in the consultants' financial proposals, except for the following situations (clearly provided in the RFP):
 - a. correction of arithmetical errors (rounding, additions, multiplications etc.);
 - b. for time-based contracts: in case of discrepancy between quantities of inputs as shown in the Technical Proposal versus the Financial Proposal (e.g. different number of staff-months), the Technical Proposal prevails and the evaluation committee shall correct the quantities indicated in the Financial Proposal so as to make them consistent with the Technical Proposal, then apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.
 - c. no adjustments are allowed for lump-sum contracts; even if certain items seem to be missing (e.g. certain reimbursable expenditures considered essential for the performance of the services), they are deemed to be included in the lump sum price quoted by the consultant.
3. Even if the proposal price seems unreasonably low, the proposal cannot be rejected at this stage (the Abnormally Low Proposal principle does not apply to consulting services).

Guidance Note – Contract Negotiations for Consulting Services (Guidance for negotiating team)

Items that are subject to negotiations

Technical

- Scope of work (should not be reduced just to fit the budget);
- Technical approach and methodology (the Client may propose improvements based on ideas in the competitors' proposals, without disclosing the source);
- Work plan and activity schedule (more efficient schedule of activities; better allocation of tasks between experts);
- Organization and staffing and time schedule for key staff (clarification of each expert's role and responsibilities);
- Training program (if applicable);
- Deliverables (number, frequency, timing, acceptance);
- Counterpart staff;
- Counterpart facilities and equipment;
- Special conditions of Contract (payment schedule);

Financial

- ONLY the Consultant's tax liability (local taxes)
- In exceptional circumstances, in a time-base contract, when the proposed staff fees are significantly higher than market rates (as compared with previous/similar contracts), these can be negotiated (with oversight from a Probity Assuror) after requesting clarifications and fee breakdown.

Important

- If the selection method included cost as a factor in the evaluation, the Financial Proposal for a lump-sum contract shall **not** be negotiated (unless particular circumstances surrounding the selection process, e.g. low competition, significantly higher fees that similar contracts etc.);
- The technical negotiations shall start by addressing the weaknesses in the Consultant's technical proposal as identified in the evaluation report;
- The Consultant should not be allowed to substitute key experts, unless such changes
 - are critical to meet the objectives of the assignment; or

- are due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity.
- If unavoidable, each proposed replacement shall be evaluated to determine that the qualifications of the new candidates are better or equal to the key staff included in the proposal;
- The discussions shall not substantially change the original scope of services under the TOR or the terms of the contract;
- The final TOR and the agreed methodology shall be incorporated in the “Description of Services” which shall form part of the Contract (this may be different from the TOR in the RFP and/or from the Consultant’s technical proposal).

Guidance Note – Replacement of Key Experts in Consulting or Works Contracts

This guidance covers the issue of the replacement of a Vendor's key experts at the request of the Vendor.

The guidance refers not only to key experts in the procurement of consulting services (although this is the most commonplace context where key experts are critical), but in any type of procurement where the contract award decision includes an evaluation of key experts proposed by the bidders (e.g. civil works procurements where certain key experts are scored as part of the technical evaluation of bids).

The relevance of key experts

Key experts play a crucial role during the selection stage (where their qualifications and experience can largely determine the which bidder is awarded the contract, especially in the procurement of consulting services) and during the contract implementation stage (where the quality of their input is critical for a successful implementation). It is extremely important that Project Managers fully understand the relevance and influence that the key experts have on the achievement of their project's objectives.

Since the experience and qualifications of key experts can directly influence the outcome of the selection process, it is natural that bidders would seek to maximize their chances of being awarded the contract by proposing high quality staff (in fact, submitting high quality CVs) that would meet (and exceed) the relevant criteria in the solicitation documents. At the same time, bidders are also mindful of the cost component of their bids, which they try to keep at a competitive level.

On the other side, the client (NRPB) would seek to select the most talented individuals and to ensure that they are actively involved in the implementation of the assignment (and that they remain involved until the successful completion of the contract).

The "bait and switch" trap

The opposing interests of the bidders and clients can sometimes result in a known practice where the bidder proposes high-quality key staff in the technical proposal in order to win the contract and subsequently seeks to substitute them with other less qualified (and cheaper) staff either at the time of negotiations or in the early implementation stage of the contract. (Sometimes the CVs of qualified experts are included in the proposals even without their knowledge – this is why the evaluation committee should consider any unsigned CV as a major red flag).

The solicitation documents (for the procurement stage) and conditions of contract (for the implementation stage) protect the client by prescribing detailed mechanisms to deal with such attempts. Project Managers should be particularly careful in enforcing the contractual provisions in order to avoid the proliferation of “bait and switch” practices.

Substitution of key experts

Obviously, not all requests for substitution are dishonest. There are many possible situations outside the control of the bidder or Vendor that make substitutions unavoidable, e.g. an expert resigned from the firm or became sick or otherwise objectively unavailable. Each of these situations must be justified and each proposed replacement should be evaluated to ensure that the qualifications of the newly proposed candidate are equal to or better than those of the staff being replaced.

Usually, the solicitation documents and the contractual provisions mention 3 different instances when a bidder or Vendor may request the replacement of key experts:

1. During the evaluation stage

Bidders have an obligation to maintain the availability of their key experts until the expiration of their bid validity. If it is established that any key expert nominated in the bid was in fact not available at the time of bid submission or was included in the bid without their knowledge or confirmation, such bid shall be disqualified, and the bidder may be subject to other sanctions as may be prescribed in the solicitation documents.

However, if NRPB cannot complete the evaluation within the originally anticipated period of bid validity and the bidders are required to extend the bid validity period, it may happen that the original key experts are no longer available. If any of the key experts become unavailable for the extended validity period, the bidder shall provide a written adequate justification and evidence satisfactory to the NRPB together with the request for substitution. In such case, a substitute key expert shall have equal or better qualifications and experience than those of the originally proposed key expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original key expert.

If the bidder fails to provide a substitute key expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to NRPB, the bid will be rejected.

2. During contract negotiations

Once (technical and financial) evaluation is completed, and if the solicitation documents provide for a negotiations phase, NRPB can move on to negotiations with the selected bidder.

Again, the bidder proposed for award must confirm the availability of all key experts included in their bid as a pre-requisite to the negotiation. Failure to confirm the key

experts' availability may result in the rejection of the bid and the NRPB proceeding to negotiate the contract with the next-ranked bidder.

Any substitution of key experts at the negotiations phase may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the bidder, including but not limited to death or medical incapacity. In such case, the bidder shall, within the period of time specified in the letter of invitation to negotiate the contract, offer a substitute key expert who shall have equivalent or better qualifications and experience than the original candidate.

The Project Manager (with the assistance of evaluation committee members, if necessary) shall determine if the proposed candidate meets these conditions.

3. During contract implementation

Replacements during implementation of the assignment are probably the most frequent because this is a phase when some Vendors assume that the project team has let their guard down once the contract is signed and implementation started.

Usually the contractual provisions require the exact same mechanism and level of scrutiny as the one described under 2. above, namely that any substitution during contract execution may be considered only based on the Vendor's written request and due to circumstances outside the reasonable control of the Vendor, including but not limited to death or medical incapacity. In such case, the Vendor shall provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

The Project Manager (with the assistance of evaluation committee members, if necessary) shall determine if the proposed candidate meets these conditions. Only after the replacement is formally approved by the Project Manager, the new expert can be deployed to work under the contract.

Guidance Note – Price Adjustment

The purpose of this Guidance Note is to help NRPB staff understand the principles and application of price adjustment, which is a contractual mechanism that

- takes into account the legitimate changes in the cost of performing the contract;
- aims at protecting both contract parties from the negative effects of price fluctuations.

Why?

The inclusion of price adjustment provisions in the contract is generally meant to compensate the Vendor for the increased cost of performing their contractual obligations caused by price escalation (which may be due to general inflation, wage increase, currency exchange fluctuations, unforeseen events that disrupt supply chains etc.). Of course, price adjustment could (theoretically) go both ways, in the form of passing on savings to the client due to the downward movement in costs (but this is a much rarer occurrence).

It may be tempting for the client (NRPB) to discard these provisions by not allowing price adjustment in the solicitation documents and thereby assigning the full risk of cost increases to the Vendor. While this seems like an easy way out, it usually comes at a higher overall cost for NRPB because

- risk-averse bidders might be discouraged to bid for a contract where they are exposed to cost increase, thereby directly affecting competition and NRPB's chances of obtaining Value for Money;
- bidders who would still be willing to bid will build in price contingencies to address the risk of price fluctuations (inflating their bid prices to protect themselves from potential price increases), which usually results in higher prices being ultimately paid (versus if price adjustment had been included in the contract);
- winning bidders are likely to be the ones who are willing to take the highest risk, thereby increasing the overall risk of non-performance if costs rise to an unsustainable level.

When?

Normally, price adjustment is justified (and required) for contract durations exceeding 18 months. It is recommended that price adjustment provisions be allowed for contracts even with a shorter duration where there is well-known volatility in the cost of inputs (like the post-pandemic sharp increase in prices for fuel, metal, construction materials etc.).

Price adjustment is not usually necessary for

- simple, off-the-shelf supply contracts with short/immediate delivery periods;

- fixed-price/lump-sum consulting contracts.

The decision to apply price adjustment must be taken during the **planning** stage of the procurement, i.e. during the preparation of the solicitation documents.

A decision to introduce price adjustment after contract award (during contract negotiations with the successful bidder or through an amendment during the contract implementation stage) would be a breach of procurement principles, as the selected bidder would get a preferential treatment to the detriment of potential bidders who might have been discouraged to bid. However, such a decision might be justified in exceptional circumstances, when severe and unforeseeable market distortions occurred after the receipt of bids.

How?

There are two main methods of applying price adjustment:

1. *Documentary-based price adjustment*, which relies on the bidders to submit quotations or pro forma invoices for main inputs as part of their bids, and actual invoices during contract implementation (with the payment requests). Since this method may be easily manipulated by the Vendor and would require a significant audit effort from NRPB, it should only be used for very unique procurements, when no available index can be used as a proxy (e.g. highly complex medical equipment).
2. *Formula-based price adjustment*, which relies on the application of a formula based on a set of clearly defined weightings and indexes that closely follow the evolution of prices. This guidance note will only focus on this method, since it is the most commonly used (due to its simplicity), equitable and transparent mechanism to address price fluctuations.

Formula-based price adjustment reflects the understanding that

- (a) the contract price is composed of various inputs (e.g. wages, construction materials, fuel in the case of most civil works contracts);
- (b) these inputs (cost elements) have variable weights in the overall price (e.g. a contract for digging a trench would be very labor intensive but low on construction materials compared to a contract for pouring a concrete foundation – although both are works contracts);
- (c) it is impractical to consider all possible inputs (e.g. stationery used by the contractor's admin staff or brake pads in an excavator), so the price adjustment formula should focus on a few key cost elements that would be the most important in the composition of the contract price;
- (d) each of these inputs has its own price evolution in time (e.g. wages grow at a different rate than fuel);
- (e) the Vendor may incur these costs in different currencies, depending on the source of each cost elements. For the purposes of this guidance note, the currency issue will not be discussed here, since most NRPB contracts would be denominated (and payable in USD);

- (f) since not the whole of the contract price is a direct cost for the Vendor (overheads and profit are also part of the price), not the whole contract price would be subject to adjustment. Consequently, any formula would include a non-adjustable portion of the price, which is usually 15% (MDBs use a range of 10-20%). (An alternative explanation of setting aside a non-adjustable portion is that it reflects the advance payment to the Vendor, which is usually paid shortly after contract signing, so it bears no inflation).

Designing the price adjustment formula

Once agreed that a contract would be subject to price adjustment, it is imperative that the price adjustment formula is provided in the solicitation document, so all bidders compete based on the same understanding of the impact of cost fluctuations on their future cash flows.

A typical formula must include the elements discussed above, namely

- (a) *the non-adjustable component* (the 15% discussed above as an example, which reflects how much of the contract price would **not** be subject to price adjustment) – this will be provided by NRPB in the solicitation document;

The adjustable component would be the remaining 85% in the same example, which sums up all the cost elements that would be subject to price adjustment;

- (b) *the breakdown of the adjustable component*, i.e. how much of the 85% would be spent by the Vendor on the main cost elements (e.g. 40% labor; 40% construction materials; 20% fuel) – this breakdown should be provided by each bidder, since each bidder would have a slightly different cost structure, depending on factors like construction methods (e.g. using manual digging vs. excavator). Usually the solicitation document will have a section (e.g. Table of adjustment data) where bidders would provide this breakdown;
- (c) the applicable *indexes* for each cost element, i.e. what is the reference index (and the source of index) for each of the cost elements identified above (e.g. unit labor costs as communicated by the US Department of Labor; metal index as published by the London Metal Exchange; or more generic indexes like the Consumer Price Index or Producer Price Index etc.) – these indexes and sources should also be provided by the bidders (together with the cost breakdown above).

In addition to the above, it is critical that the contract clearly states:

- (a) when will the adjustments start (normally on the 13th month of a lump sum consulting contract; or in the first invoice for a civil works contract);
- (b) if the adjustments will be applied monthly, quarterly or otherwise.

The most basic price adjustment formula is used for example in the case of small works, where only one index is suggested:

$$P = A + B * I_m/I_o$$

where:

- P is the adjustment factor;
- A is the non-adjustable portion of the contract price (15% in the example above)
- B is the adjustable portion (85% in the same scenario)
- I_m is the index prevailing at the end of the month being invoiced (let's say the index has a current value of 120)
- I_o is the index prevailing 28 days before bid submission date (let's say the index had a value of 110 at that time).

Let's say that in the month in question the Vendor has completed works valued at \$100,000 according to the contract.

In order to calculate how much NRPB actually owes to the Vendor, we need to calculate the adjustment factor (P) to be applied to this value.

$$P = 15\% + (85\% * 120/110)$$

$$P = 0.15 + (0.85 * 1.09)$$

$$P = 0.15 + 0.927$$

$$P = 1.077 \text{ (meaning an 7.7\% overall price increase)}$$

The amount to be paid is therefore $\$100,000 * 1.077 = \$107,700$

Having just one index (as in the formula above) indicates that a more generic index is being considered – like the Consumer Price Index or Producer Price Index. This approach has the advantage of simplicity in application but evidently lacks precision in the sense that it does not follow very accurately the real impact of changes in price of various price elements.

If the value and complexity of the contract requires a more accurate approximation of the real effect of price fluctuations of the main cost elements, then a more complex formula may be used.

For example, instead of a generic index we use 2 cost elements: labor and fuel.

A formula might look like this:

$$P = A + B * L_m/L_o + C * F_m/F_o$$

where:

- P is the adjustment factor;
- A is the non-adjustable portion of the contract price (15%)
- B is the labor portion (65% of the total contract price)
- C is the fuel portion (20% of the total contract price)
- L_m is the labor index at the end of the month being invoiced (let's say the index has a current value of 125)

- Lo is the labor index 28 days before bid submission date (let's say the index had a value of 105 at that time)
- Fm is the fuel index at the end of the month being invoiced (let's say the index has a current value of 3.85)
- Fo is the fuel index 28 days before bid submission date (let's say the index had a value of 3.75 at that time)

$$P = 15\% + (65\% * 125/105) + (20\% * 3.85/3.75)$$

$$P = 0.15 + (0.65 * 1.19) + (0.2 * 1.0267)$$

$$P = 0.15 + 0.7735 + 0.20534$$

P = 1.12884 (meaning a 12.884% overall price increase, resulting from a 19% labor cost increase and a 2.67% fuel price increase)

The amount to be paid is therefore \$100,000 * 1.12884 = \$112,884.

Depending on the complexity of the contract, more cost elements can be added. It is important to ensure that:

- (a) The sum of non-adjustable portion and all adjustable portions (provided by NRPB in the solicitation document) is always 100%.
- (b) Each individual cost element is linked to a specific price index that is published regularly (monthly) by a publicly recognized source (national statistics offices, international stock exchanges, central banks etc.)
- (c) Each price index has a base/reference value, to which every subsequent monthly index would be compared. This is the value communicated for that index 28 days before bid submission date.

If the successful bidder did not include the information under (b) and (c) in their bid, then this information must be requested during contract negotiation/contract finalization stage and included in the signed contract.

Price adjustment for newly added items

When we have a variation or a contract amendment that introduces new items in the contract, the unit prices for these new items are usually determined/negotiated based on current market prices or documentary evidence submitted by the Vendor.

The following principles shall be followed for the adjustment of these new items:

- If the new items are going to be used for a limited period of time (a few months), then their value shall be excluded from the adjustment and they should be paid at the prices agreed in the variation order/contract amendment. In this case, the Vendor's invoice will

show separately the value to be subject to price adjustment as described above, and the value of these new items, to be paid at their nominal price (not adjusted)

- If the new items are added very early in the contract implementation and they will be used throughout the life of the contract, then these items will be subject to a separate adjustment, because the reference date of their respective index would not be the usual base date applicable to the rest of the contract price (28 days before the bid submission date), but the date when they were introduced in the contract.

For example, let's assume that precast concrete box culverts are added to the scope of a works contract at \$10,000 a piece through a contract amendment signed in January. The index to be used for this item is the Precast Concrete Products index communicated by the US Bureau of Labor Statistics. The base value would be the latest index valid at the time of signing of amendment (January) and all subsequent price adjustments (starting with the invoice for February, if the contract allows or monthly adjustments) shall use this as basis for indexation.

Adjustment for different currencies

If the currency in which the Contract price is expressed and payable (USD) is different from the currency of the country of origin of the labor and/or materials indices (e.g. The Netherlands), a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be: Z_0 / Z_1 , where,

Z_0 = the number of units of currency of the origin of the indices (Euro) which equal to one unit of the currency of the Contract (USD) on the base date, and

Z_1 = the number of units of currency of the origin of the indices (Euro) which equal to one unit of the currency of the Contract (USD) on the date of adjustment.

Keeping adjustments relevant

There may be (rare) situations in the life of a contract (especially long duration, complex works) where original elements of the price adjustment formula are no longer applicable or relevant. Examples may include

- (a) The publication of a certain index is discontinued (or indexes are merged or split) by the organization calculating them;
- (b) The original weightings are no longer relevant following changes in work methods or materials (e.g. the contract anticipated only manual digging but through a contract amendment the quantity of digging was greatly increased, resulting in using excavators only; normally, the weighting of labor should decrease and the one for equipment/fuel should increase);
- (c) If the cost of a particular item, which was not originally allocated any weighting in the formula, raises dramatically in response to severe market distortions (e.g. supply chain

disruptions, like in the case of computer chips or certain raw materials), then the contract parties should agree to change the contractual formula to reflect the true impact of this price fluctuation;

- (e) Due to situations like embargoes or other type of supply chain issues, the Vendor has to change the source of certain critical materials to a supplier from another country, with different prices (and different index).

In all the above situations it is normal to reopen the issue of the contractual price adjustment formula and revise it in order to make it relevant to the new circumstances.

Source of funds

Whenever a price adjustment clause is included in a contract, in order to avoid the need to keep amending the contract price to accommodate the additional expenses due to price adjustment, the appropriate budgetary allowance should be made to the cost estimate at the time the solicitation documents are issued. There are two ways to do this:

- (a) Add a provisional sum for price adjustment, that would cover the likely effect of price adjustment over the life of the contract (e.g. a fixed amount of \$100,000 added as a provisional sum to the bill of quantity);
- (b) Add a percentage of contingencies for price adjustment (e.g. add 20% to the bill of quantity subtotal).

Guidance Note – Contract Initiation and Contract Closing for Civil Works

1. **Introduction:** For a successful contract implementation, it is important that the Project Manager very closely watches the steps on initiation of contracts, monitors the contract using Project Management Software and through regular meetings with the contractor as per contract provisions. But most importantly, the contracts are required to be closed in a methodical way, certifying that the contracting parties have fulfilled their respective obligations and there are no claims or disputes. With civil works as an example, this guidance note focusses on important steps at the stage of contract initiation and for contract closing.
2. **Important Steps at Contract Initiation:** Following contract award and prior to commencement of infrastructure/civil works contracts, certain conditions are to be met. The commencement of works contract normally begins with a mobilization or pre-construction phase during which the site is prepared for construction.

The mobilization period should be carefully managed by the contracting parties and given its significance to the successful execution of a contract, the contract mobilization may itself require a plan. The mobilization or pre-construction phase can include major activities such as land clearance, excavation, building access roads to the site, work site establishment and construction of contractor's personnel accommodations. Given the potential environmental and social impact of this phase, it is critical that the correct documents, training, procedures, and systems are in place to ensure that all ESHS impacts are identified and managed appropriately at this time, usually as part of Contractor's Environmental and Social Management Plan (C-ESMP).

The following sections describe key contract initiation actions related to (i) Commercial; (ii) Environmental & Social; (iii) Operational/Technical; and (iv) Contractual Relationship.

Commercial

- Ensure that all relevant parties have copies of the contract
- Establish contract information management system
- Ensure that valid performance security is in place
- Establish a system to monitor expenditures and timelines for the contract
- Obtain evidence of insurance and policies, advance payment, and performances securities in accordance with the contract
- Agree on contractor's representative (if not already named in the contract)
- Ensure all planning, zoning and other permissions required by the contract have been obtained
- Give right of access to and possession of the Site as required by the contract

Environmental & Social

- Ensure that appropriate measures are in place to address ES risks and impacts.
- Evidence of induction/ training of contractor's and Contract Manager's Personnel on ES.
- Ensure health and safety risk assessments have been completed for the mobilization activities and necessary safety measures are in place
- Ensure the C-ESMP is approved before the commencement of works.
- Ensure key ESHS personnel has mobilized.

Operational and Technical

- Ensure that the Engineer/Project Manager is in place and the contractor is notified (if not already notified in the contract)
- Establish key performance indicators (KPIs) in line with contract requirements
- Check compliance with Employer's Requirements
- Establish schedule for regular meetings, field visits, inspections, reviews and audits
- Ensure that the contractor has instituted a quality assurance system relevant to mobilization
- Dispute Board/ Adjudicator appointed in accordance with the contract
- Notice of the intended date of the commencement of each sub-contractor's work, and of the commencement of such work on the Site

Contractual Relationship

- Establish reporting mechanism
- Notify the contractor on the Employer's Personnel such as the Engineer/Project Manager, employees of the Engineer/Project Manager; and any other personnel relevant to the contract
- Establish roles and responsibilities
- Establish modalities of communication

3. **Important Considerations in Contract Closing:** In accordance with the provisions of the contract, a completion certificate is to be issued by NRPB to the contractor on completion of the work. This also requires strict enforcement of contract conditions. It is essential that the contractor fulfils all its obligation in terms of the contract, all due payments to the contractor are released, all records are available for future reference, all claims and disputes are resolved, and the contract is closed in a methodical manner and a "no claim" certificate or statement is obtained from the contractor.

A contract closing checklist is provided below. Certificates on completion and "no claim" are available as templates.

Checklist of Contract Closing Certificates

Description of the Contract:

Date of Contract:

Contractor:

Initial Contract Value:

Final Contract Value:

Contract Completion Date:

No.	Description	Content of Certification	Reference Document /responsible person
CC-01	Certificate of Final Amendment of the Contract	Certification that all amendments have been issued: Last Amendment # and date.....	
CC-02	Certificate of “As Built” Drawing Receipt	Certification that contractor has furnished all as built drawing in soft copy and in requisite numbers in hard copies on	
CC-03	Certificate on all Miscellaneous Technical records	Certification that all relevant technical records are available and kept at	
CC-04	Certificate of Scope Completion	Certification that contract has been completed as required by the scope of work	
CC-05	Certificate on Liquidated /Delay Damages	Certification that Liquidated/Delay Damages as per contract provision is resolved	
CC-06	Certificate on Material Reconciliation	Certification that materials issued to the contractor have been reconciled and no recovery is pending with the contractor	
CC-07	Certificate on Payment Reconciliation	Certification that all payments released to the contractor have been reconciled and no recoveries are pending	
CC-08	Certificate on Labor Payment/ Environmental and Social Requirement	A certification that all labor payment including any liabilities have been complied as per statutory requirement including on Environmental and Social Requirement	
CC-09	Certificate on Removal of all Surplus Material and Site cleared	A certification that all scaffoldings, surplus material, rubbish etc has been removed as per contract requirements	
CC-10	Certification on Defect Liability obligation	A certificate that contractor has fulfilled all its Defect Liability obligations	
CC-11	Certificate on Return of all Bank Guarantees/ Performance Security and other financial document	A certificate that all security deposits, Bank Guarantee, hypothecation deed, insurance policies have been returned	
CC-12	No Claim Certificate	A “No Claim Certificate” to be obtained as per attached format and exchanged for CC-11	



Guidance Note – Small Works Contract Management Checklist

Contract Signing: Marks the formal agreement by all parties. Before signing, the following prerequisites must be fulfilled to ensure readiness and compliance:

- a) A complete contract package has been shared with the contractor, including all annexes:
 - 1. the Letter of Acceptance
 - 2. the Letter of Bid
 - 3. the addenda Nos (if any)
 - 4. the Particular Conditions
 - 5. the General Conditions of Contract, including appendix;
 - 6. the Specification
 - 7. the Drawings
 - 8. Bill of Quantities/Activity Schedule and
 - 9. any other document listed in the PCC as forming part of the Contract.
- b) A Performance guarantee is provided
- c) An Advance Payment Guarantee is submitted if required
- d) An environmental and social (ES) performance security if so specified in the PCC, is provided no later than the date specified in the Letter of Acceptance and shall be issued in an amount specified
- e) Beneficial Ownership Disclosure Form is submitted

Contract commencement: Marks the official start of the project work, as defined in the contract. The commencement date is specified in a notice to proceed, which will be issued once the following is met:

- a) An approved CESMP is in place
- b) The contractor delivered insurance Policies and certificates to the Project Manager for the Manager's approval.
- c) Construction permits, environmental clearances, zoning approvals, and other statutory licenses are obtained.
- d) A detailed project timeline, typically in the form of a Gantt chart or similar tool, is provided.
- e) Works Program & Site possession

Variation orders: Issued during contract implementation when there is a need to adjust the contract scope, design, quantities or other terms.

They are initiated due to unforeseen circumstances, required design modifications, quantity adjustments, or additional requirements not included in the original contract.

Before approving a variation order:

- a) A detailed analysis of the proposed changes must be presented by the contractor and approved by the Project Manager including:
 - 1. Updated BoQ
 - 2. Proposed unit costs for additional items not included in the original BoQ
 - 3. Justification of the changes
 - 4. When designs are modified, update of drawings for the sections that are being changed.
 - 5. Updated proposed timelines
 - 6. Calculations to support the design update (e.g. structural calculation, hydraulic calculations, soil testing reports, and other relevant studies)

Amendments: Formal modifications made to the contract terms and conditions. Changes often address:

- a) Changes in project scope
- b) Extension of the contract duration
- c) Contract amount adjustment
- d) Price adjustment if specified in the contract

Requirements for amendments:

- a) Requirement from the Project Manager
- b) Clear justification of the changes
- c) Calculations updates if the contract amount is affected (Updated BoQ)
- d) Supporting documentation or analysis for extension of time.

Price Adjustments: Formal adjustment of unit prices

- a) Calculation of price adjustments if this option is approved in the contract linked to a formula and price indices
- b) Statutory variation may result in an amendment of price in the cost when it exceeds the provisional sum

Provisional Completion: When all activities have been completed, and minor outstanding works, defects, or adjustments still need to be addressed, the project manager issues a Provisional Completion Certificate, considering the following has been met:

- a) All main project components are complete and functional in accordance with the contract specifications

- b) Outstanding work is minimal and should not affect the usability or safety of the project.
- c) A documented list of minor works or defects requiring rectification, along with agreed timelines for completion, is established
- d) Any Pending claims are identified and addressed
- e) Liquidated damages for delays are calculated and documented.
- f) Agreement on the start date of the defects liability period
- g) All quantities of work completed are accurately measured and accounted for against the BoQ.
- h) A closing variation order is issued to reflect all executed quantities, and the contract balance is finalized.

Final completion: Occurs after the defect liability period. The contractor requests a final inspection to verify that all contractual obligations have been met. Before the Project Manager issues the Final Completion certificate, the following must be completed:

- a) Verify that all pending payments have been completed
- b) Closure of all retention amounts, including those from advance payments or other deductions.
- c) Release of all advance payment guarantees and performance guarantees.
- d) Resolution and mutual agreement on any pending liquidated damages, if applicable.
- e) Clarification and submission of any other pending issues (e.g. as built drawing, quality tests certificates, operations and maintenance manuals, final permits or certifications, warranties)

Guidance Note – Types of Specifications

Defining requirements is a critical step in any procurement because the quality and accuracy of the requirements greatly influence the outcome of the selection process. An inaccurate or vague description of requirements is very likely to result in a failed procurement due to poor competition, inconsistent bids that cannot be easily compared, lack of a proper base for monitoring the Vendor's performance etc.

This guidance focuses on specifications for goods, works and non-consulting services (Terms of Reference for consulting services are treated under a separate guidance note).

There are two broad categories of specifications, namely *conformance specifications* and *performance specifications*. They require different levels of involvement from the NRPB/Client and the Vendor, and encourage different levels of innovation from the market. When choosing one type over the other, the following aspects must be considered:

Conformance specifications

Conformance specifications are used when a thorough understanding of the needs and requirements already exists, and there is little to no desire for the Vendor to innovate. In these circumstances the client normally has a comprehensive understanding of the requirements and is able to describe them in detail. This includes its technical, design, ES and functional requirements, as well as being able to describe exactly how the Vendor must perform and deliver the requirements. This is why they are also called *input* specifications.

Conformance specifications work best for simple purchases of goods, works, and non-consulting services in which there is a focus on defining specific quantities and specifications for the requirements and unit price costing, and specifics around the time, place, and manner for delivery and acceptance.

The main risk of a conformance specification is if the specification is incorrect, such as if the design is faulty. Then, all the risk lies with the client because they have specified exactly what they want and left nothing to the market to innovate upon.

Generally, RFB processes use conformance specifications, where the bidders must conform to the specifications prescribed by the client (who controls the design and – to a substantial extent – the method of delivery).

Conformance specifications are usually evaluated against qualifying criteria on a pass/fail basis. That means that the bid either meets the requirements (is determined to be substantially responsive) or it does not meet the requirements (is rejected).

Despite its non-innovative nature, a conformance specification may accommodate sustainability considerations. For example, the requirements may specify a physical (measurable) thresholds or characteristics like minimum percentage of recycled content, or mandatory use of sustainably sourced timber etc.

Performance specifications

Performance specifications are used when the understanding of what is required in terms of *outcomes* can be described, or when the client is uncertain of the best process or method to deliver the requirements, or when the market is known to have the capability to design fit-for-purpose solutions.

In contrast with conformance specifications, which focus on inputs, performance specifications focus on *outputs* or results rather than detailing the process of production, construction, and delivery. They are particularly effective at allowing Vendors to bring their own expertise, creativity, innovation, and resources to the procurement process without restricting them to predetermined methods or detailed processes. This allows Vendors to reduce cost and passes the risk of both cost and performance to the Vendor.

As a general rule, performance specifications focus on achieving results, whereas conformance specifications focus on meeting specified design and resource requirements.

Performance specifications are appropriate for RFP processes, where the technical merits are evaluated using rated criteria.

Main differences between conformance and performance specifications

	Conformance	Performance
Focus	Input	Output
Relevance of vendor innovation	None	High
Time needed to develop specs	Longer	Shorter
Client control over result	High	Low
Client's risk if specs are wrong	Very high	Very low
Complexity of evaluation	Low (pass/fail)	High (rated criteria)

Hybrid specifications

In the real world, specifications are rarely 100% conformance or 100% performance. Most often, the requirements in the solicitation document would include some conformance parameters (e.g. the generator should comply with ISO 8528 and ANSI/IEEE C62.41) and some performance criteria (e.g. the generator should have a specific fuel consumption of maximum 0.35 liters/kWh at full load).

Guidance Note – Types of Contractual Arrangements

The choice of contract type is an important decision that should be made during the planning stage of the procurement process because the choice of contract type usually dictates the risk allocation between the client and Vendor.

There are five main types of contract arrangements, and their use will be determined by the selected SPD:

1. Lump Sum Contracts
2. Time-based Contracts
3. Schedule of Rates/Admeasurement Contracts
4. Performance-Based Contracts
5. Framework Agreements

Lump Sum Contracts

In a lump sum contract, the Vendor agrees to perform the scope of services for a fixed contract amount. Payment percentages or amounts may be linked to the completion of contractual milestones or determined as a percentage of the value of the work to be performed.

Lump sum contracts may be appropriate when:

- The scope of the contract can be clearly and accurately specified and can be linked to apparent milestones and payments at the time of selection, e.g. simple civil works or consulting services with clearly identifiable deliverables;
- The Vendor is responsible for delivering the completed Work, e.g. for example, an industrial plant or a turnkey IT solution that are paid on a lump sum basis per contractual milestones.

Time-based contracts

Under a time-based contract the payment is made based on agreed rates and time spent, plus reasonable incurred reimbursable expenses.

These types of contractual arrangements are normally used for consulting services where it is difficult to define or fix the scope and duration of the services, such as complex studies, supervision of construction, and advisory services.

Schedule of Rates /Admeasurement contracts

Admeasurement contracts are based on estimated quantities of items and contractually agreed unit prices for each of these items. Payment is calculated based on the actual quantities of items used or delivered and applying the agreed-upon contractual unit rate to determine the price to be paid.

This type of contract is appropriate for most civil works (based on bills of quantities), when the nature of the work is well-defined but the quantities cannot be determined with reasonable accuracy in advance of construction.

This type of contract is also appropriate for goods and non-consulting services, when the required quantities are known, and unit prices are sought from bidders.

Performance-based contracts

Performance-based contracts are types of contracts where payments are made for measured outputs, or performance targets, instead of inputs. The outputs aim at satisfying functional needs in terms of quality, quantity or reliability. Given the nature of this contract, it is critical that clear and relevant KPIs or performance targets are stipulated and monitored in the contract.

As the name suggests, performance specifications are used under this type of contract.

Performance-based contracts may be appropriate for:

- The rehabilitation of roads and operation and maintenance of the roads by a contractor for specified periods
- Non-consulting services to be paid on the basis of outputs
- The operation of a facility to be paid based on functional performance.

Framework Agreement (FA)

An FA is not technically a contract, but a (non-binding) agreement with one or more Vendors (selected competitively) that sets the terms and conditions that would govern future subsequent contracts to be awarded within the framework of the said agreement. Such terms and conditions would normally include unit prices, minimum staff qualifications etc.

FAs are appropriate for:

- Frequent reordering based on the same (or very similar) requirements/specifications;
- When different departments/projects have very similar needs that can be aggregated;
- When no single Vendor can meet the entire demand.

A multi-Vendor FA allows the client to select (competitively) the Vendor that offers the best Value for Money for the particular need at that particular time.

