

Inform Practice Note #9

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Evaluation of Quality in Tender Submissions

cidb's Inform Practice notes provide guidance and clarity in achieving client objectives in construction procurement and delivery. Practice notes inform clients and practitioners on how to embrace best practice and how to deal with issues that may arise. They are aligned with, but do not replace regulation.

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Synopsis:

Tender submissions may be evaluated in terms of price alone, price and preference, price and quality or price, quality and preference. The introduction of quality into the evaluation of tenders, although introducing a number of complexities into the evaluation of tender submissions, enables the most favourable offer to be established, where objective criteria other than price and preference need to be evaluated.

This practice note provides an overview of the manner in which quality may be evaluated in tender submissions, identifies the circumstances under which quality should be evaluated and provides a practical procedure to do so.

1. Introduction

World Trade Organisation Government Procurement:

The Plurilateral Agreement

Article XIII

Submission, Receipt and Opening of Tenders and Awarding of Contracts

4(b) Unless in the public interest an entity decides not to issue the contract, the entity shall make the award to the tenderer who has been determined to be fully capable of undertaking the contract and whose tender, whether for domestic products or services, or products or services of other Parties, is either the lowest tender or the tender which in terms of the specific evaluation criteria set forth in the notices or tender documentation is determined to be the most advantageous.

Public sector tender submissions in most parts of the world are evaluated in terms of a number of criteria in order to determine which the most favourable offer is or which offer provides the best value for money. (See examples of international practices at the end of the practice note). Such criteria may be broadly categorised as follows:

- **Financial offer** i.e. the cost of the procurement in monetary terms.
- **Quality** i.e. totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs.
- **Preference** i.e. a weighting or an adjustment to the price to promote a social or economic objective.

2. Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)

Section 2(1)(f) of the Preferential Procurement Policy Framework Act, 2000, reads as follows:

(f) the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer.

The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) describes the manner in which a price preference may be applied. The Act does not explicitly make provision for the determination of the most economically advantageous tender as it only makes reference to price. It does, however, allow the award of the contract to be made to a tenderer other than the one scoring the most tender evaluation points after a preference is applied to the price. This is conditional upon there being objective criteria other than those relating to specific goals associated with the organ of state's preferential procurement policy to justify the award to another.

The Preferential Procurement Policy Framework Act Regulations (2001) provide formulae to calculate the points for price.

It should be noted that the Regulations issued in terms of the Act make provision for the awarding of contracts on the basis of preference and or price, functionality (quality) and preference. Regulation 8 permits the points for a portion of the evaluation points for price to be allocated to functionality and the evaluation points for preference to be added to the combined evaluation points for price and functionality. (See National Treasury's Practice Note SCM 3 of 2003.)

3. The provisions of the cidb Standard for Uniformity in Construction Works

Evaluation methods provided for in the cidb Standard Conditions of Tender

Method	Description
Method 1: Financial offer	1) Rank tender offers from the most favourable to the least favourable comparative offer. 2) Recommend highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 2: Financial offer and preferences	1) Score tender evaluation points for financial offer. 2) Confirm that tenderers are eligible for the preferences claimed and if so, score tender evaluation points for preferencing. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3: Financial offer and quality	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Calculate total tender evaluation points. 4) Rank tender offers from the highest number of tender evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 4: Financial offer, quality and preferences	1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the Tender data. 2) Score tender evaluation points for financial offer. 3) Confirm that tenderers are eligible for the preferences claimed, and if so, score tender evaluation points for preferencing. 4) Calculate total tender evaluation points. 5) Rank tender offers from the highest number of tender evaluation points to the lowest. 6) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.

In line with international best practice, Clause F.3.11 of the **cidb Standard Conditions of Tender** contained in annex F of the cidb Standard for Uniformity in Construction Procurement, establishes procedures for the evaluation of tender offers using one of the following four methods, viz:

- Method 1: Financial offer
- Method 2: Financial offer and preferences
- Method 3: Financial offer and quality
- Method 4: Financial offer, quality and preferences

The cidb Standard Conditions of Tender are generic in nature and are made procurement specific through data which is incorporated in the procurement documents. Clause F.1.3 contemplates that the tender data in the procurement documents for a particular procurement:

- Identifies the method that is to be used in the evaluation of tenders;

cidb Standard for Uniformity in Construction Procurement Requirements for quality criteria

4.3.2 Quality criteria used in the evaluation of tender offers shall form an integral part of the tender offer and hence the outcome of the procurement. Such criteria shall:

- a) Relate directly to the supplies, services or engineering and construction works that are being procured and to matters that cannot directly be expressed in monetary terms;
- b) Be justifiable in terms of projected procurement outcomes;
- c) Enable the most economically advantageous offer to be established; and
- d) To the extent practicable, be objective and quantifiable.

4.3.3 Quality criteria used in terms of 4.3.2 may include criteria such as:

- a) Technical merit;
- b) Response to (ability to relate to) the proposed scope of work/project design;
- c) Aesthetic and functional characteristics;
- d) Safety and environmental characteristics;
- e) Quality control practices and procedures which ensure compliance with stated employer's requirements;
- f) Reliability;
- g) Durability;
- h) Organisation, logistics and support resources relevant to the scope of work;
- i) Qualifications and demonstrated experience of the key staff (assigned personnel) in relation to the scope of work;
- j) Demonstrated experience of tendering entity with respect to specific aspects of the project/comparable projects;
- j) Running costs;
- k) After-sales service and technical assistance;
- l) Delivery date; and
- m) Delivery period or period of completion.

4.3.4 Quality criteria shall not include:

- a) Social considerations, such as the composition of workforces in terms of race, gender or disability; or
- b) Matters relating to the basic capability or capacity of the tendering entity to execute the contract.

The requirements in the cidb's Standard for Uniformity in Construction Procurement for the formulation of tender data associated with each of the aforementioned 4 methods of evaluation is aligned with the Preferential Procurement Regulations and National Treasury's Practice Notes.

- Establishes the weighting between financial offer and preference, financial offer and quality, and financial offer, quality and preference, as relevant;
- Describes and quantifies the preferences, establishes the conditions associated with the granting of preferences and the precise manner in which preferences are to be scored; and
- Establishes the quality criteria and sub-criteria that are to be evaluated and the precise manner in which quality is to be scored.

In order to align these generic methods with the current legislative requirements, the cidb Standard for Uniformity in Construction Procurement, prescribes the manner in which the tender data associated with a specific procurement is to be formulated. This standard also establishes requirements for quality criteria used in the evaluation of tender offers.

4. Recommended approach

In a fair, equitable, transparent and competitive procurement system, the:

- Quality criteria must be stated clearly and unambiguously in the procurement documents;
- The weighting associated with each of the quality sub-criteria must be stated as well as the weighting for quality as a whole; and
- Quality criteria must be objective.

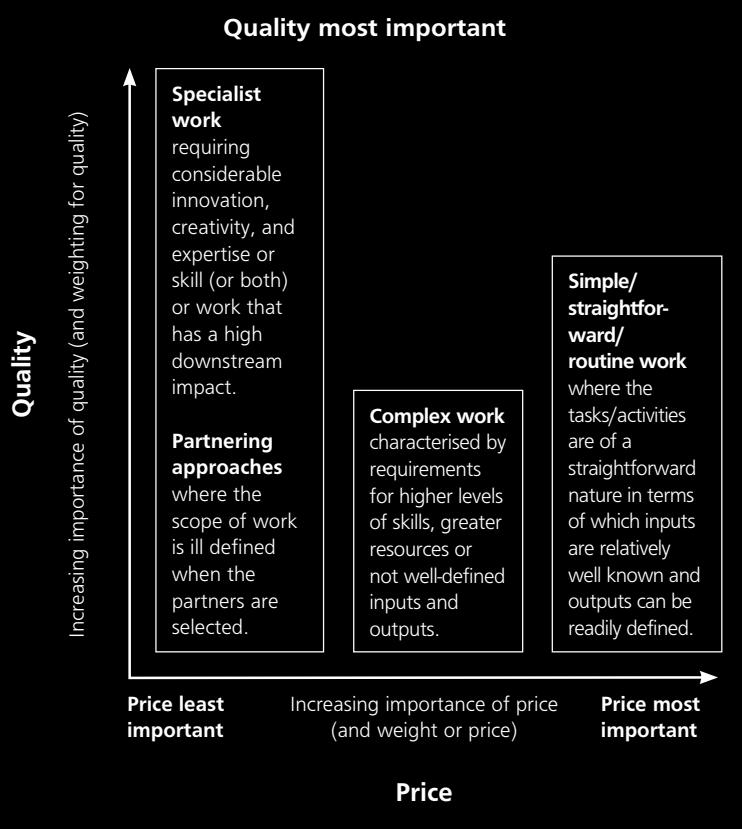
The decision making process regarding the award of a tender must be reasonable and as far as possible devoid of subjectivity. Accordingly, where quality evaluation criteria are applied when making a decision as to who the contract should be awarded to, such criteria must be well formulated and pre-determined.

Quality criteria must not be confused with eligibility criteria which relate to the capability and capacity of a tenderer to perform the contract and the avoidance of conflicts of interest i.e. the criteria which a tenderer must satisfy in order to have his or her tender evaluated.

The awarding of a contract is an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), and as such is subject to judicial review by a court or tribunal.

Section 6 of the Act permits any person to institute proceedings for the judicial review of an administrative action for reasons which include:

- If the administrator who took it was biased or reasonably suspected of bias;
- The action was procedurally unfair;
- The action was taken:
 - For an ulterior purpose or motive;
 - Because irrelevant considerations were taken into account or relevant considerations were not considered;
 - In bad faith; or
 - Arbitrarily or capriciously;
- The action itself is not rationally connected to:
 - The purpose for which it was taken;
 - The information before the administrator; or
 - The reasons given for it by the administrator;
- The performance of the function in pursuance of which the administrative action was purportedly taken, is so unreasonable that no reasonable person could have so performed the function; or
- The action is otherwise unconstitutional or unlawful.



Quality criteria should also not be confused with the reasons for not accepting a tender offer of the highest ranked tenderer or the tenderer scoring the highest number of tender evaluation points i.e:

- The tender presents an unacceptable risk to the employer;
- The tenderer:
 - Is under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;
 - Cannot, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
 - Does not possess the legal capacity to enter into the contract;
 - Is insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing;
 - Does not comply with the legal requirements, if any, stated in the tender data; and
 - Is unable, in the opinion of the employer, to perform the contract free of conflicts of interest.

The quality of the service offered by different tenderers including joint ventures (consortia), can be qualitatively compared by objectively rating a number of quality criteria that are pertinent to the specific scope of work associated with a project.

A practical way of doing so is to:

Step 1: Identify, where justifiable and where desirable, not more than five quality criteria that are pertinent to the project (see examples);

Quality Criteria: Knowledge of issues to the project

Rating	Indicator
No response (0)	
Poor (40)	Key staff have limited experience of issues pertinent to the project.
Satisfactory (70)	Key staff have reasonable experience of issues pertinent to the project.
Good (90)	Key staff have extensive experience of issues pertinent to the project.
Very good (100)	Key staff have outstanding experience of issues pertinent to the project.

Quality Criteria: Knowledge of issues pertinent to the project (linear scale)

Score	Indicator
0	Failed to address the issues.
20	Failed to address the issues.
40	Less than acceptable response.
60	Acceptable response to the particular aspect of the requirement.
80	Above acceptable response – demonstrates real understanding of requirements.
100	Excellent response – gives real confidence that the supplier will add real value.

Step 2: Develop say 4 indicators for each of the quality criteria so that each tenderer can be rated in one of four categories i.e. poor, satisfactory, good and very good in relation to such criteria.

Step 3: Develop a returnable schedule for each of the criteria for inclusion in the procurement documents which (see examples in cidb standardised procurement documents):

- Provides a short description of the quality criteria and outlines what the employer is looking for;
- States what the tenderer must submit in order to be evaluated; and
- Contains the indicators against which a tenderer will be evaluated.

Step 4: Assign a weighting to each of the quality criteria, based on their perceived importance to the project and the nature of the project (see indicative ratios), and state weighting in tender data and minimum score below which a tender will be rejected.

Examples of commonly encountered quality criteria

Category of contract	Brief description of quality sub-criteria
Engineering and construction works	Quality control/health and safety/environmental practices and procedures which are geared to satisfying stated requirements. Technical approach/methodology/proposed programme to satisfying stated employer's objectives/ managing project risks. Demonstrable capability to mobilise own, hired and subcontracted resources in projects of a similar nature. Qualifications/experience of staff allocated to the project/availability of skills to manage and perform the contract (assigned personnel). Experience (track record) on previous contracts of a similar nature, scope or complexity (over the last five years). Availability of equipment and personnel required for the project and contingency plans. Management structure and resources allocated to the contract. Time to practical completion. Aesthetic/functional characteristics/projected life cycle costs of the works (design and build/develop and construct contracts).

Category of contract	Brief description of quality sub-criteria
Services (including professional services)	<p>Response to (ability to relate to) the proposed scope of work/project design (Approach paper) which establishes the manner in which the respondent or tenderer intends to perform the contract and add value in the attainment of the employer's stated objectives.</p> <p>Adequacy of proposed work plan and proposed methodology.</p> <p>Organisation, logistics and support resources.</p> <p>Demonstrable managerial ability appropriate to the size and nature of work Control procedures.</p> <p>Qualifications and competence of the key staff (assigned personnel) in relation to the scope of work.</p> <p>Demonstrated experience (past performance) in comparable projects.</p> <p>Demonstrated experience with respect to specific aspects of the project.</p> <p>Experience (familiarity) in the region or similar regions (local knowledge).</p> <p>Quality assurance systems which ensure compliance with stated employer's requirements.</p> <p>Sound knowledge of the employer's policies or work procedures (or both)</p> <p>Arrangements for the transfer of knowledge.</p> <p>Demonstrable capability to mobilise own, hired and subcontracted resources in projects of a similar nature.</p>
Supplies	<p>Attainment of quality standards e.g. quality marks.</p> <p>Quality assurance systems/environmental practices which ensure compliance with stated employer's requirements or objectives.</p> <p>Periods for delivery</p> <p>Availability of after sales service/technical support/spare parts.</p> <p>Safety and environmental benefits</p> <p>Product reliability and performance.</p> <p>Life cycle costs.</p>

Guideline

Indicative quality/financial offer ratio for professional services and engineering and construction works

Nature of project	Indicative quality/financial offer ratio	
	Professional services	Engineering and construction works
Feasibility studies and investigations	80/20 to 85/15	-
Innovative projects	70/30 to 85/15	20/80 to 40/60
Complex projects	60/40 to 80/20	10/90 to 35/65
Straightforward projects	30/70 to 60/40	10/90 to 25/75
Repeat projects	10/90 to 30/70	5/95 100 to 10/90

Further information may be found in the cidb Best Practice Guideline A4: Evaluating Quality in Tender Submissions (see www.cidb.org.za).

Step 5: Appoint an evaluation panel of not less than three persons to review the returnable schedules relating to quality and to rate the submissions in terms of the indicators.

Step 6: Average the scores of each of the evaluators, multiply the average scores by the percentage weighting and add the scores together to arrive at a total.

Step 7: Eliminate any tenderer who scores below the threshold score stated in the tender data.

Step 8: Calculate the total score for quality and calculate the score for financial offer. Combine the quality and financial scores and continue with the evaluation of tenders in accordance with the method stated in the tender data.

Examples of international practices

European Union

The European Union permits contracting authorities to award a contract to the most economically advantageous tender i.e. the one that offers best value for money. The EU procurement directives require that contracting authorities determine the economic and criteria linked to the subject matter of the contract, which, taken as a whole, make it possible to determine the most economically advantageous tender.

Contracting authorities are required to reasonably inform tenderers of the criteria and arrangements which will be applied to identify the most economically advantageous tender. Accordingly, contracting authorities are required to indicate the criteria for the award of the contract and the relative weighting given to each of those criteria in sufficient time for tenderers

Tender data

F.3.11.1	The minimum number of evaluation points for quality is 60	
F.3.11.3	The quality criteria and maximum score in respect of each of the criteria are as follows:	
Criteria	Maximum number of points	
Approach paper		
Organisation and staffing		
Experience of the lead professionals		
Tenderer's experience		
Maximum possible score for quality (M_s)		
F.3.11.3	Qualify shall be scored independently by not less than three evaluators in accordance with the following schedules: <ul style="list-style-type: none">• Evaluation Schedule: Approach Paper Evaluation• Schedule: Proposed Organisation and Staffing• Evaluation Schedule: Experience of the Key Staff• Evaluation Schedule: Tenderer's Experience Scores of 40, 70, 90 or 100 will be allocated to each of the criteria based on the indicators contained in these schedules, provided that the submission is complete. The scores of each of the evaluators will then be averaged, weighted and then totalled to obtain the final score for quality.	

DIRECTIVE 2004/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

Article 53

Contract award criteria

1. Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which the contracting authorities shall base the award of public contracts shall be either:
 - (a) When the award is made to the tender most economically advantageous from the point of view of the contracting authority, various criteria linked to the subject-matter of the public contract in question, for example, quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost-effectiveness, after-sales service and technical assistance, delivery date and delivery period or period of completion, or
 - (b) The lowest price only.

1994 - UNCITRAL Model Law on Procurement of Goods, Construction and Services

Article 39. Criteria for the evaluation of proposals

- (1) The procuring entity shall establish criteria for evaluating the proposals and determine the relative weight to be accorded to each such criterion and the manner in which they are to be applied in the evaluation of proposals. Those criteria shall be notified to suppliers or contractors in the request for proposals and may concern only the following:
 - (a) The qualifications, experience, reputation, reliability and professional and managerial competence of the supplier or contractor and of the personnel to be involved in providing the services;
 - (b) The effectiveness of the proposal submitted by the supplier or contractor in meeting the needs of the procuring entity;
 - (c) The proposal price, subject to any margin of preference applied pursuant to paragraph (2), including any ancillary or related costs;
 - (d)
 - (e)
- (2) If authorised by the procurement regulations (and subject to approval by ...) in evaluating and comparing the proposals, a procuring entity may grant a margin of preference for the benefit of domestic suppliers of services, which shall be calculated in accordance with the procurement regulations and reflected in the record of the procurement proceedings.

to be aware of them when preparing their tenders.

The World Bank

The World Bank's Guidelines Selection and Employment of Consultants by World Bank Borrowers makes provision for a number of methods for the evaluation of tender offers. This document advocates the use of a cost-quality selection procedure to appoint consultants in most circumstances.

The Bank recommends that the proposals be evaluated in two stages: first the quality, and then the cost. In terms of the procedure, evaluators of technical proposals are not given access to the financial proposals until the technical evaluation is concluded.

Each technical proposal (using an evaluation committee of three or more specialists in the sector) is evaluated, taking into account several criteria such as the consultant's relevant experience for the assignment, the quality of the methodology proposed, the qualifications of the key staff proposed, transfer of knowledge, and the extent of participation by nationals among key staff in the performance of the assignment. Each criterion is required to be marked on a scale of 1 to 100. The marks are then weighted and summated to become scores.

Thereafter, the financial proposals are reviewed. The proposal with the lowest cost is usually given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. The total score is obtained by weighting the quality and cost scores and adding them. The consultant obtaining the highest total score is invited for negotiations.

United Nations Commission on International Trade Law

The United Nations Commission on International Trade Law is the core legal body of the United Nations system in the field of international trade law. It specialises in commercial law reform and has a specific focus on the modernisation and harmonisation of rules on international business.

The UNCITRAL model laws establish a permissible range of criteria that a procuring entity may apply in evaluating tenders and proposals. The procuring entity is not necessarily required to apply each of the criteria in every instance of procurement. In the interests

of transparency, however, the procuring entity is required to apply the same criteria to all proposals in a given procurement proceeding and it is precluded from applying criteria that have not been pre-disclosed to the suppliers or contractors in the request for proposals.

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