



European Bank
for Reconstruction and Development

Standard Tender Documents Procurement of Simple Works (Trial Edition)

May 2018

Preface

This trial edition of **Standard Tender Documents for Simple Works (STD-SW)** has been prepared by the European Bank for Reconstruction and Development (hereafter referred to as 'the Bank') for use by its borrowers. It is intended to serve as a model for the procurement of works of a simple nature and complexity.

Use of this STD-SW is not mandatory, but the procedures and practices presented have been developed through broad experience and represent the state of the art in the contracting of simple works. Local customs and regulations play a large part in the procurement of simple works and the documents should be adapted as necessary to the requirements of the specific works to be procured. More complex works or works to be contracted under Open tendering procedures should be procured using the Bank's "Standard Tender Documents, Procurement of Works".

This STD is intended to be used where the proposed works are of simple nature, low value with a short contract duration (less than a year), and where the magnitude of the potential risks involved is small for both the Employer and the Contractor. Under normal circumstances low value would be considered as less than EUR 1 million. However, the overriding consideration when considering the use of this document should be the *nature and complexity* of the works and not the value.

The General Conditions of Contract of the STD-SW are based on the first edition, 1999 of the International Federation of Consulting Engineers' (FIDIC) "Short Form of Contract", and the balance of the document on the Bank's experience.

Details to be entered by the Employer prior to the release of the tender documents for a particular project are limited to the Tender Data Sheet (TDS), the proposed Agreement, and the Particular Conditions. Details not entered by the Employer are the responsibility of the Tenderer. In addition, the Employer provides the Specification, Drawings, and Bill of Quantities.

Since the intention is that this STD-SW should only be used for contracts of short duration and of low risk, there is neither a provision for price adjustment nor for foreign currency payments. Furthermore, there is no reference to an impartial "Engineer" or "Project Manager" but the Employer must appoint an authorized person to act for him, and if he wishes to engage a consultant to administer the contract, he may appoint a representative with specific delegated duties and authority.

The use of tender and performance securities is optional in this STD-SW. A decision to require such securities should be part of the overall approach to risk management and should take into account available measures to reduce the risk of the Contractor's default.

This edition of STD-SW has been identified as a "Trial Edition". Any feedback and comments should be directed to the Procurement Policy Advisory Department (PPAD) of the Bank email: procurement@ebrd.com

When completing the documents, the Employer or their procurement consultants should further consider that as part of its commitment to sustainable development, the Bank promotes the application of good international practice regarding environmental and social matters as stipulated in the Bank's Environmental and Social Policy¹ and its Performance Requirements².

The following guidelines should be observed:

- (a) Specific details such as the "name of the Employer" or "address for tender submission" should be entered where indicated.
- (b) Guidance Notes on using these documents are provided in boxed text e.g. , provisions in italic font or in square brackets e.g. [] that contain instructions and guidance which the drafter should follow. They are not part of the text and should not be included in the final document to be issued to potential tenderers.
- (c) When submitting tender documents to the Bank for review, clients should state whether these Standard Tender Documents & User's Guide have been used. If so, the client should:

¹ <http://www.ebrd.com/documents/comms-and-bis/pdf-environmental-and-social-policy.pdf>

² <http://www.ebrd.com/who-we-are/our-values/environmental-and-social-policy/performance-requirements.html>

- (i) confirm that the Instructions to Tenderers and the General Conditions of Contract have been used without change;
- (ii) highlight any proposed changes to the following:
 - Letter of Tender
 - Tender Forms
 - Form of Tender Security
 - Manufacturer's Authorisation
 - Letter of Acceptance
 - Contract Agreement and Contract Forms
 - Performance Security (if applicable)
 - Bank Guarantee for Advance Payment (if applicable)

These documents reflect the structure and provisions of the Master Document, except where specific considerations within the Bank have required a change, and are comprised of the following Parts and Sections:

Section I: Instructions to Tenderers (ITT)

This Section provides information to help Tenderers prepare their tenders. Information is also provided on the submission, opening, and evaluation of tenders as well as the award of Contracts. The text found in the clauses in this Section can only be modified, adjusted or supplemented through Section II, Tender Data Sheet.

Section II: Tender Data Sheet (TDS)

This section includes provisions, which are specific to each individual procurement, and which modify, adjust or supplement Section I, Instructions to Tenderers.

Section III: Evaluation and Qualification Criteria

This Section specifies the criteria to be used to determine the lowest evaluated tender and the requirements for the Tenderer's qualification to perform the Contract. The criteria for tender evaluation and the methods for applying such criteria in evaluation should be reviewed carefully. It may be appropriate to delete or to modify some of the criteria given in this document, or to use additional criteria. In any event, criteria must be quantified in monetary terms except in rare occasions, where that is not practical.

Section IV: Tender Forms

This Section includes the forms which are to be completed by the Tenderer and to be submitted as part of its tender.

Section V: Requirements

This section contains the Specification, the Drawings, and Supplementary information that describe the works to be procured.

Section VI: Part A: General Conditions of Contract (GCC)

These Standard Tender Documents have been designed for use with the General Conditions of Contract for the "Short Form of Contract", first edition, 1999, prepared by the Fédération Internationale des Ingénieurs-Conseils (FIDIC) with the exception that the "Agreement" and the "Appendix to the Agreement" are deleted. Due to the FIDIC copyrights, these FIDIC Conditions of Contract are not included in these Tender Documents which contain instructions on how these Conditions can be acquired.

Section VII: Part B: Particular Conditions of Contract (PCC)

The contents of this Section contain clauses specific to each contract that modify or supplement Section VI, General Conditions of Contract. The sections included in these documents should only be regarded as representative of the most common provisions. All particular conditions should be selected and/or drafted by the Employer specifically for each procurement.

Section VIII: Annex to the PCC - Contract Forms

This section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Tenderer after Contract award.

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The Invitation for Tenders provides information that enables potential Tenderers to decide whether to participate.

The Invitation for Tenders must be published on the Bank’s website www.ebrd.com (but not before the publication of the General Procurement Notice) as well as the Employer’s own procurement website and official government procurement portal in the Employer’s country. When practical the Invitation for Tenders shall also be published in a newspaper with wide circulation in the Employer’s country and official gazettes or international trade publications as appropriate. The notice should also be sent to potential Contractors that have responded to the General Procurement Notice and to local representatives of potential foreign Contractors’s e.g. commercial attachés of the embassies accredited in the Employer’s country. Employers should maintain a register of all potential Tenderers, who have purchased the tender documents, and make it available to interested parties. The Bank shall also arrange for publication in the United Nations Development Business and in the Official Journal of the European Union.

Although the Invitation for Tenders does not form part of the tender documents, it shall be submitted to the Bank as part thereof for review and no objection. The information in the Invitation for Tenders must be consistent with and reflect the information provided by the tender documents. Apart from the essential items listed in the Standard Tender Documents the Invitation for Tenders should also indicate any important tender evaluation criteria and/or qualification requirements.

Invitation for Tenders

... [insert the name of the Country]

... [insert name of the Project]

... [insert the name of the works to be procured]

1. This Invitation for Tenders follows the General Procurement Notice for this project which was published on the European Bank for Reconstruction and Development (the Bank) website, Procurement Notices (www.ebrd.com) on ...[**state the date of publication**].
2. [**insert Name of Employer**] hereinafter referred to as “the Employer”, intends using part of the proceeds of a loan from the Bank towards the cost of [**insert name of the Project**].
3. The Employer now invites sealed tenders from Contractors for the following contract[s] to be funded from part of the proceeds of the loan:
_____ [**insert brief description of contract(s)**] _____

For each Contract include a concise description of the works for each Contract, as may be applicable. State size and principal quantities. Provide locations, estimated duration, and advise if any contracts are to be performed concurrently or otherwise separately.

Tenders are invited for one or more lots. Each lot must be priced separately. Tenders for more than one lot may offer discounts and such discounts will be considered in the comparison of tenders.

Delete the above if tendering process does not involve more than one Contract/lot.

4. Tendering for contracts to be financed with the proceeds of a loan from the Bank is open to firms from any country.
5. To be qualified for the award of a contract, tenderers must substantially satisfy the following minimum criteria:[**Replicate the information contained in Section III: Evaluation and Qualification Criteria – B: Qualification Criteria**]
6. The tender documents are available electronically, on a free of charge basis.
7. All tenders must be accompanied by a tender security of _____[**state currency and amount deemed appropriate by the Employer. This should be consistent with paragraph 19.1 of the Instructions to Tenderers (ITT)**], or its equivalent in a convertible currency.

Delete the above paragraph if a tender security is not required.

8. Tenders must be delivered to the office at the address below on or before[**specify time and date of deadline for submission**], at which time they will be opened in the presence of those tenderers' representatives who choose to attend.

The date for submission of tenders shall be not less than 28 calendar days after the date of publication of the Invitation for Tenders or the availability of the tender documents, whichever is the latest. A longer period would be appropriate for complex or large contracts and for tenders requiring a pre-tender meeting or site visit.

9. The applicable procurement rules are the Bank's Procurement Policies and Rules (PP&R) which can be located at: www.ebrd.com/news/publications/policies/procurement-policies-and-rules.html

Prospective tenderers may obtain the tender documents and further information through the following contact details:

-[Insert name of Contact name]
-[Insert name of Employer]
-[Insert Address of Employer]
-[Insert Tel:]
-[Insert Fax:]
-[Insert email address]

[Insert date of letter] Date: _____

TENDER DOCUMENT FOR PROCUREMENT OF SIMPLE WORKS

PROCUREMENT OF:

Issued on:	
Tender No:	
Employer:	
Country:	

TENDER DOCUMENT

TABLE OF CONTENTS

Section I: Instructions to Tenderers.....	1
Section II: Tender Data Sheet	16
Section III: Evaluation and Qualification Criteria	20
Section IV: Tender Forms	23
Section V: Requirements.....	36
Section VI: Part A:General Conditions of Contract (GCC).....	37
Section VII: Particular Conditions of Contract (PCC).....	38
Section VIII: Annex to the PCC - Contract Forms	42

Section I: Instructions to Tenderers

TABLE OF CONTENTS

A. GENERAL	3
1. Scope of Tender.....	3
2. Source of Funds and Applicable Procurement Rules	3
3. Prohibited Practices	3
4. Eligible Tenderers	4
5. Eligible Goods and Related Services	6
B. CONTENTS OF TENDER DOCUMENT	6
6. Sections of Tender Document	6
7. Clarification of Tender Document, Site Visit, Pre-Tender Meeting.....	7
8. Amendment of Tender Document	7
C. PREPARATION OF TENDERS	7
9. Cost of Tendering.....	7
10. Language of Tender.....	8
11. Documents Comprising the Tender	8
12. Letter of Tender and Price Schedules	8
13. Alternative Tenders.....	8
14. Tender Prices and Discounts	8
15. Currencies of Tender	8
16. Documents Establishing the Qualifications of the Tenderer.....	8
17. Documents Establishing the Eligibility of Works, Goods and Related Services	8
18. Period of Validity of Tenders	8
19. Tender Security	8
20. Format and Signing of Tender	9
D. SUBMISSION AND OPENING OF TENDERS	10
21. Submission, Sealing and Marking of Tenders	10
22. Deadline for Submission of Tenders	10
23. Late Tenders	10
24. Withdrawal, Substitution, and Modification of Tenders	10

25.	Tender Opening	11
E. EXAMINATION OF TENDERS		11
26.	Confidentiality	11
27.	Clarification of Tenders	12
28.	Determination of Responsiveness.....	12
29.	Nonmaterial Nonconformities.....	12
F. TENDER EVALUATION AND COMPARISON.....		13
30.	Evaluation of Tenders and Correction of Arithmetical Errors.....	13
31.	Conversion to Single Currency	13
32.	Tender Adjustments	13
33.	Qualification of the Tenderer	13
34.	Purchaser or Employer’s Right to Accept Any Tender, and to Reject Any or All Tenders.....	14
G. AWARD OF CONTRACT		14
35.	Award Criteria.....	14
36.	Notification of Award	14
37.	Signing of Contract Agreement	14
38.	Performance Security	14
H. COMPLAINTS		15
39.	Complaint Procedure.....	15

A. GENERAL

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| 1. Scope of Tender | <p>1.1 The Purchaser or the Employer indicated in Section II, Tender Data Sheet (herein after referred to as “TDS”) issues this Tender Document for the procurement of Goods and Related Services or Works, as specified in Section V: Requirements. The name, identification, and number of lots are provided in the TDS.</p> <p>1.2 Unless otherwise stated, throughout this Tender Document definitions and interpretations shall be as prescribed in Section VI, General Conditions of Contract (herein after referred to as “GCC”).</p> |
| 2. Source of Funds and Applicable Procurement Rules | <p>2.1 The Borrower or Recipient (hereinafter called “Borrower”) indicated in the TDS has applied for or received financing (hereinafter called “funds”) from the European Bank for Reconstruction and Development (hereinafter called the “Bank”) toward the cost of the project named in the TDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract(s) for which this Tender Document is issued.</p> <p>2.2 Payments by the Bank will be made only at the request of the Borrower and upon approval by the Bank in accordance with the terms and conditions of the financing agreement between the Borrower and the Bank (hereinafter called the “Loan Agreement”), and will be subject in all respects to the terms and conditions of that Loan Agreement. No party other than the Borrower shall derive any rights from the Loan Agreement or have any claim to the funds.</p> <p>2.3 The applicable procurement rules are the Bank’s Procurement Policies and Rules (PP&Rs) which can be located at: www.ebrd.com/news/publications/policies/procurement-policies-and-rules.html</p> |
| 3. Prohibited Practices | <p>3.1 The Bank requires that Borrowers (including beneficiaries of Bank loans), as well as tenderers, suppliers, sub-suppliers, contractors, sub-contractors, concessionaires, consultants and sub-consultants under Bank financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Bank:</p> <p style="margin-left: 40px;">(a) defines, for the purposes of this provision, Prohibited Practices as one or more of the following:</p> <ul style="list-style-type: none"> (i) a “Coercive Practice” which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party to influence improperly the actions of a party; (ii) a “Collusive Practice” which means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; (iii) a “Corrupt Practice” which means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; (iv) a “Fraudulent Practice” which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; (v) a “Misuse of Bank’s Resources or Bank Assets” which means improper use of the Bank’s Resources or Bank Assets, committed either knowingly or recklessly; and, (vi) an “Obstructive Practice” which means of any of (1) destroying, falsifying, altering or concealing of evidence material to a Bank investigation, which impedes the Bank’s investigation; (2) making false statements to investigators in order to materially impede a Bank investigation into allegations of a Prohibited Practice; (3) failing to comply with requests to provide information, documents or records in |

connection with a Bank investigation; (4) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Bank investigation or from pursuing the investigation; or (5) materially impeding the exercise of the Bank's contractual rights of audit or inspection or access to information; and

- (vii) a **"theft"** which means the misappropriation of property belonging to another party.
- (b) will reject a proposal for award if it determines that the tenderer, supplier, sub-supplier, contractor, sub-contractor, concessionaire or consultant or sub-consultant recommended for award has engaged in Prohibited Practices in competing for the contract in question;
- (c) will cancel the portion of the Bank financing allocated to a contract for goods, works, services or concessions if it at any time determines that Prohibited Practices were engaged in by representatives of the Borrower or of a beneficiary of the Bank financing during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;
- (d) may declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that the firm has engaged in Prohibited Practices in competing for, or in executing, a Bank-financed contract;
- (e) reserves the right, where a Borrower or a firm has been found by the final judgement of a judicial process in a member country of the Bank or by the enforcement (or similar) mechanism of another international organisation, including Mutual Enforcement Institutions to have engaged in Prohibited Practices.
 - (i) to cancel all or part of the Bank financing for such Borrower; and
 - (ii) to declare that such a firm is ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract; and
- (f) will have the right to require that, in contracts financed by the Bank, a provision be included requiring suppliers, contractors, concessionaires, consultants and sub-consultants to permit the Bank to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Bank.

3.2 Furthermore, tenderers shall be aware of the provisions stated in Sections VI and VII, General and Particular Conditions of Contract as the case may be.

4. Eligible Tenderers

- 4.1 The Bank permits firms and individuals from all countries to offer goods, works and services for Bank-financed projects regardless of whether the country is a member of the Bank. Consistent with international law, the proceeds of the Bank's loans, equity investment or guarantees shall not be used for payment to persons or entities or for any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. Persons or entities, or suppliers offering goods and services, covered by such prohibition shall therefore not be eligible for the award of Bank-financed contracts.
- 4.2 A tenderer may be a natural person, private entity, government-owned entity—subject to Instructions to Tenderers (hereinafter referred to as "ITT") 4.6—or any combination of such entities in the form of a Joint Venture, Consortium, or Association joint venture, consortium, or association (JVCA). In the case of a JVCA:
 - a) unless otherwise specified in the TDS, all partners shall be jointly and severally liable; and
 - b) the JVCA shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the partners of the JVCA during the Tender process and, in the event the JVCA is awarded the

Contract, during contract execution.

- 4.3 A tenderer and all parties constituting the Tenderer, shall have the nationality of an eligible country. A tenderer shall be deemed to have the nationality of a country if the tenderer is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed sub-contractors or suppliers or sub-suppliers for any part of the Contract including Related Services.
- 4.4 A tenderer shall not have a conflict of interest. All tenderers found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if:
- (a) they have controlling partners in common; or
 - (b) they receive or have received any direct or indirect subsidy from any of them; or
 - (c) they have the same legal representative for purposes of this Tender; or
 - (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the tender of another tenderer, or influence the decisions of the Purchaser or the Employer regarding this tendering process; or
 - (e) a Tenderer participates as a Tenderer or a partner in a JVCA in more than one Tender in this Tender process. Participation as a Tenderer or a partner in a JVCA in more than one Tender will result in the disqualification of all Tenders in which it is involved. However, this does not limit the inclusion of the same subcontractor in more than one Tender. For the purpose of this provision, a subcontractor is not deemed to be participating in the Tender process; or
 - (f) a tenderer, its affiliates or parent organisation has participated in the feasibility or design stages of a project, that tenderer, its affiliates or parent organisation shall not be eligible to participate in a tender for contracts involving the supply of goods, works or services, including architectural or engineering services, for the project, unless it can be demonstrated that such participation would not constitute a conflict of interest. Such determination must be made prior to the submission of a tender or
 - (g) a tenderer participated as a consultant in the preparation of Section V, Requirements that are the subject of the tender or
 - (h) a tenderer or any of its affiliates has been hired, or is proposed to be hired, by the Purchaser or the Employer or the Borrower for the supervision of the contract.
- 4.5 A tenderer shall be disqualified if the tenderer, an affiliate of the tenderer, a party constituting the tenderer or an affiliate of a party constituting the tenderer, is under a declaration of ineligibility by the Bank in accordance with ITT 3, at the date of the deadline for Tender submission or thereafter.
- 4.6 No affiliate of the Purchaser or the Employer shall be eligible to tender or participate in a tender in any capacity whatsoever unless it can be demonstrated that there is not a significant degree of common ownership, influence or control amongst the affiliate and the Purchaser or the Employer or the Borrower.
- 4.7 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Purchaser or Employer, as the Purchaser or Employer shall reasonably request.
- 4.8 Firms shall be excluded if:
- (a) as a matter of law or official regulation, the Borrower's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition; or
 - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's

country prohibits any import of Goods from that country or any payments to persons or entities in that country.

4.9 In case a prequalification process has been conducted prior to the tender process, this Tender is open only to pre-qualified tenderers.

4.10 Where a prequalification process has been conducted prior to the Tendering process, the formation of a joint venture after prequalification as well as any change in a prequalified joint venture will be subject to the written approval of the Purchaser or the Employer prior to the deadline for submission of tenders. Such approval may be denied if (i) partners withdraw from a joint venture and the remaining partners do not meet the qualifying requirements; (ii) the level of participation by partners or the structure of the joint venture is substantially changed; (iii) the new joint venture is not qualified; (iv) in the opinion of the Purchaser or the Employer, a substantial reduction in competition may result; or (v) request for a change in the prequalification status of the Tenderer is received by the Purchaser or the Employer after the date 28 days prior to the deadline for tender submission.

The Purchaser or the Employer will use its best efforts to notify any changes in the list of prequalified tenderers as soon as it would be possible and in any event prior to the tenders' opening.

5. Eligible Goods and Related Services

5.1 All goods and services to be supplied under the Contract and financed by the Bank, shall have as their country of origin an eligible country of the Bank in accordance with ITT 4.1.

5.2 For purposes of this paragraph, the term "Goods" includes commodities, raw material, machinery, equipment, and industrial plants; and "Related Services" includes services such as insurance, transportation, installation, commissioning, training, and initial maintenance.

5.3 The term "Country of Origin" means the country where the Goods have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components.

5.4 The nationality of the firm that produces, assembles, distributes, or sells the Goods shall not determine their origin.

B. CONTENTS OF TENDER DOCUMENT

6. Sections of Tender Document

6.1 The Tender Document consist of the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT 8.

- Section I: Instructions to Tenderers (ITT)
- Section II: Tender Data Sheet (TDS)
- Section III: Evaluation and Qualification Criteria
- Section IV: Tender Forms
- Section V: Requirements
- Section VI: General Conditions of Contract (GCC)
- Section VII: Particular Conditions of Contract (PCC)
- Section VIII: Annex to the PCC - Contract Forms

6.2 The Invitation for Tenders issued by the Purchaser or the Employer is not part of the Tender Document.

6.3 The tenderer shall obtain the Tender Document from the source stated by the Purchaser or the Employer in the Invitation for Tenders; otherwise the Purchaser or the Employer is not responsible for the completeness of the Tender Document.

6.4 The tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document. Failure to furnish all information or documentation required by the Tender Document may result in the rejection of the

Tender.

7. Clarification of Tender Document, Site Visit, Pre-Tender Meeting

- 7.1 A prospective tenderer requiring any clarification of the Tender Document shall contact the Purchaser or Employer in writing at the Purchaser's or the Employer's address indicated in the TDS or raise his enquiries during the pre-Tender meeting if provided for in accordance with ITT 7.4. The Purchaser or the Employer will respond to any request for clarification, provided that such request is received prior to the deadline for submission of Tenders, within the number of days specified in the TDS. The Purchaser or the Employer's response shall be in writing with copies to all tenderers who have acquired the Tender Document in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. Should the Purchaser or the Employer deem it necessary to amend the Tender Document as a result of a request for clarification, it shall do so following the procedure under ITT 8 and ITT 22.2.
- 7.2 Where applicable, the tenderer is advised to visit and examine the project site and obtain for itself on its own responsibility all information that may be necessary for preparing the Tender and entering into a contract for the provision of the Supply Requirements or Requirements. The costs of visiting the site shall be at the tenderer's own expense.
- 7.3 Pursuant to ITT 7.2, where the tenderer and any of its personnel or agents have been granted permission by the Purchaser or the Employer to enter upon its premises and lands for the purpose of such visit, the tenderer, its personnel, and agents will release and indemnify the Purchaser or the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the visit.
- 7.4 The tenderer's designated representative is invited to attend a pre-Tender meeting, if provided for in the TDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. If so provided for in the TDS, the Purchaser or the Employer will organise a site visit.
- 7.5 The tenderer is requested, as far as possible, to submit any questions in writing, to reach the Purchaser or the Employer not later than one week before the meeting.
- 7.6 Minutes of the pre-Tender meeting, including the text of the questions raised without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all tenderers who have acquired the Tender Document in accordance with ITT 6.3. Any modification to the Tender Document that may become necessary as a result of the pre-Tender meeting shall be made by the Purchaser or the Employer exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting.
- 7.7 Non-attendance at the pre-Tender meeting will not be a cause for disqualification of a tenderer.

8. Amendment of Tender Document

- 8.1 At any time prior to the deadline for submission of Tenders, the Purchaser or the Employer may amend the Tender Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Tender Document and shall be communicated in writing to all who have obtained the Tender Document from Purchaser or the Employer in accordance with ITT 6.3.
- 8.3 To give prospective tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Purchaser or the Employer may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 22.2

C. PREPARATION OF TENDERS

9. Cost of

- 9.1 The tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Purchaser or the Employer shall not be responsible or liable for

Tendering	those costs, regardless of the conduct or outcome of the Tendering process.
10. Language of Tender	10.1 The Tender, as well as all correspondence and documents relating to the Tender exchanged by the tenderer and the Purchaser or the Employer, shall be written in the language specified in the TDS. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages in that language, in which case, for purposes of interpretation of the Tender, such translation shall govern.
11. Documents Comprising the Tender	11.1 The Tender shall comprise the documents listed in the TDS.
12. Letter of Tender and Price Schedules	12.1 The tenderer shall submit the Letter of Tender using the form furnished in Section IV: Tender Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
13. Alternative Tenders	13.1 Unless otherwise indicated in the TDS, alternative proposals or alternative times for completion shall not be considered. If alternative proposals or alternative times for completion are permitted their method of evaluation shall be as stipulated in Section III: Evaluation and Qualification Criteria.
14. Tender Prices and Discounts	14.1 Tender prices and discounts quoted by the Tenderer in the Letter of Tender in shall conform to the requirements specified in the TDS.
15. Currencies of Tender	15.1 The currency(ies) of the Tender and the currency(ies) for payment shall be as specified in the TDS.
16. Documents Establishing the Qualifications of the Tenderer	16.1 To establish its qualifications to perform the Contract in accordance with Section III: Evaluation and Qualification Criteria, the tenderer shall provide the information requested in Section IV: Tender Forms.
17. Documents Establishing the Eligibility of Works, Goods and Related Services	17.1 To establish the eligibility of the Works, Goods and Services in accordance with ITT 5, tenderers shall complete the forms, included in Section IV: Tender Forms.
18. Period of Validity of Tenders	<p>18.1 Tenders shall remain valid for the period specified in the TDS after the Tender submission deadline date prescribed by the Purchaser or the Employer. A Tender valid for a shorter period shall be rejected by the Purchaser of the Employer as non-responsive.</p> <p>18.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Purchaser or the Employer may request tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a tender security is requested in accordance with ITT 19, the tenderer granting the request shall also extend the tender security for twenty-eight (28) calendar days beyond the deadline of the extended validity period. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 18.3.</p> <p>18.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) calendar days beyond the expiry of the initial Tender validity, the Contract price shall be adjusted as specified in the request for extension. Tender evaluation shall be based on the Tender Price without taking into consideration the above adjustment.</p>
19. Tender Security	19.1 If so required in the TDS, the tenderer shall furnish as part of its Tender, the original of a tender security using the form included in Section IV: Tender Forms. The tender security amount and currency shall be as specified in the TDS.

19.2 If a tender security is specified pursuant to ITT 19.1, the tender security shall be a demand guarantee in any of the following forms at the tenderer's option:

- (a) an unconditional guarantee issued by a bank;
- (b) an irrevocable letter of credit; or
- (c) a cashier's or certified check

from a reputable source. In the case of a bank guarantee, the tender security shall be issued by a reputable bank. If specified in the TDS, the issuing bank shall have the minimum credit rating stated in the TDS. The bank guarantee shall be submitted either using the tender security form included in Section IV: Tender Forms or in another substantially similar format approved by the Purchaser or the Employer prior to Tender submission. In either case, the form must include the complete name of the tenderer. The tender security shall be valid for twenty-eight days (28) beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 18.2.

19.3 If a tender security is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive tender security shall be rejected by the Purchaser or the Employer as non-responsive.

19.4 If a tender security is specified pursuant to ITT 19.1, the tender security of unsuccessful tenderers shall be returned as promptly as possible upon the successful tenderer's furnishing of the performance security pursuant to ITT 38.

19.5 The tender security of the successful tenderer shall be returned as promptly as possible once the successful tenderer has signed the Contract Agreement and furnished the required performance security.

19.6 The tender security may be forfeited:

- (a) if a tenderer withdraws its Tender during the period of Tender validity specified by the tenderer in the Letter of Tender or
- (b) if the successful tenderer fails to:
 - (i) sign the Contract Agreement in accordance with ITT 37; or
 - (ii) furnish a performance security in accordance with ITT 38 (if so required in the TDS).
 - (iii) accept the arithmetical correction of its Tender in accordance with ITT 30.

19.7 The tender security of a JVCA shall be in the name of the JVCA that submits the Tender or as otherwise stated in the TDS.

20. Format and Signing of Tender

20.1 The tenderer shall prepare one original set of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." In addition, the tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the tenderer. This authorisation shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorisation must be typed or printed below the signature. The number of copies of the tender required shall be specified in the TDS.

20.3 A Tender submitted by a JVCA shall comply with the following requirements:

- (a) Unless not required in accordance with ITT 4.2 (a), be signed so as to be legally binding on all partners and

- (b) Include the Representative's authorisation referred to in ITT 4.2 (b), consisting of a power of attorney signed by those legally authorised to sign on behalf of the JVCA.

20.4 Any amendments, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. SUBMISSION AND OPENING OF TENDERS

21. Submission, Sealing and Marking of Tenders

21.1 Tenderers may always submit their Tenders by mail or by hand. If so specified in the TDS, tenderers shall have the option of submitting their Tenders electronically. Procedures for submission, sealing and marking are as follows:

- (a) Tenderers submitting Tenders by mail or by hand shall enclose the original and copies of the Tender in separate sealed envelopes. If so permitted in accordance with ITT 1.3 alternative proposals, and copies thereof, shall also be placed in separate envelopes. The envelopes shall be duly marked as "ORIGINAL," "ALTERNATIVE," "ORIGINAL COPY," and "ALTERNATIVE COPY" These envelopes shall then be enclosed in one single package. The rest of the procedure shall be in accordance with ITT 21.2 and 21.3.
- (b) Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the TDS.

21.2 The inner and outer envelopes shall:

- (a) bear the name and address of the tenderer;
- (b) be addressed to the Purchaser or the Employer in accordance with ITT 22.1;
- (c) bear the specific identification of this Tendering process pursuant to ITT 1.1; and
- (d) bear a warning not to open before the time and date for Tender opening

21.3 If envelopes and packages are not sealed and marked as required, the Purchaser or the Employer will assume no responsibility for the misplacement or premature opening of the Tender.

22. Deadline for Submission of Tenders

22.1 Tenders must be received by the Purchaser or the Employer at the address, and no later than the date and time, indicated in the TDS.

22.2 The Purchaser or the Employer may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Document in accordance with ITT 8, in which case all rights and obligations of the Purchaser or the Employer and tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. Late Tenders

23.1 The Purchaser or the Employer shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 22. Any Tender received by the Purchaser or the Employer after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the tenderer.

24. Withdrawal, Substitution, and Modification of Tenders

24.1 A tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorised representative, and shall include a copy of the authorisation in accordance with ITT 20.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- (a) prepared and submitted in accordance with ITT 20 and ITT 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "Withdrawal," "Substitution," "Modification;" and
- (b) received by the Purchaser or the Employer prior to the deadline prescribed for

submission of Tenders, in accordance with ITT 22.

- 24.2 Tenders requested to be withdrawn in accordance with ITT 24.1 shall be returned unopened to the tenderers.
- 24.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the tenderer on the Letter of Tender or any extension thereof.

25. Tender Opening

- 25.1 The Purchaser or the Employer shall conduct the Tender opening in public, in the presence of tenderers` designated representatives and anyone who chooses to attend, and at the address, date and time specified in the TDS. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 21.1, shall be as specified in the TDS.
- 25.2 First, envelopes marked "Withdrawal" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at Tender opening. Next, envelopes marked "Substitution" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorisation to request the substitution and is read out at Tender opening. Envelopes marked "Modification" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorisation to request the modification and is read out at Tender opening. Only Tenders that are opened and read out at Tender opening shall be considered further.
- 25.3 The Purchaser or the Employer shall open all other envelopes one at a time and read out: the name of the tenderer, the Tender Price(s), any discounts and their application methodology, alternative Tenders, the presence or absence of a tender security; and any other details as the Purchaser or the Employer may consider appropriate. Only discounts and alternative Tenders read out at Tender opening shall be considered for evaluation. No Tender shall be rejected at Tender opening except for late Tenders, in accordance with ITT 23.1.
- 25.4 The Purchaser or the Employer shall prepare a record of the Tender opening that shall include, as a minimum: the name of the tenderer and whether there is a withdrawal, substitution, or modification; the Tender Price, per lot if applicable, including any discounts and alternative proposals; and the presence or absence of a tender security (if so required by the TDS). The tenderers' representatives who are present shall be requested to sign the record. The omission of a tenderer's signature on the record shall not invalidate the contents and effect of the record.

A copy of the record shall be distributed to all tenderers who submitted Tenders in time, and posted online when electronic Tendering is permitted.

E. EXAMINATION OF TENDERS

26. Confidentiality
- 26.1 Information relating to the evaluation of Tenders shall not be disclosed to tenderers or any other persons not officially concerned with such process until information on Contract award is communicated to all tenderers.
- 26.2 Any attempt by a tenderer to influence improperly the Purchaser or the Employer in the evaluation of the Tenders or Contract award decisions may result in the rejection of its Tender.
- 26.3 Notwithstanding ITT 26.1, from the time of Tender opening to the time of Contract award, if any tenderer wishes to contact the Purchaser or the Employer on any matter related to the tendering process, it should do so in writing.

- 27. Clarification of Tenders**
- 27.1 To assist in the examination, evaluation, and comparison of the Tenders and qualification of the tenderers, the Purchaser or the Employer may, at its discretion, ask any tenderer for a clarification of its Tender, allowing a reasonable time for response. Any clarification submitted by a tenderer that is not in response to a request by the Purchaser or the Employer shall not be considered. The Purchaser or the Employer's request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser or the Employer in the evaluation of the Tenders, in accordance with ITT 30.
- 27.2 If a tenderer does not provide clarifications of its Tender by the date and time set in the Purchaser or the Employer's request for clarification, its Tender may be rejected.
- 28. Determination of Responsiveness**
- 28.1 The Purchaser or the Employer's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 11.
- 28.2 A substantially responsive Tender is one that meets the requirements of the Tender Document without material deviation, reservation, or omission as defined below:
- (a) **"Deviation"** is a departure from the requirements specified in the Tender Document;
 - (b) **"Reservation"** is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Tender Document; and
 - (c) **"Omission"** is the failure to submit part or all of the information or documentation required in the Tender Document.
- 28.3 A material Deviation, Reservation, or Omission is one that,
- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the Requirements as specified in Section V: Requirements; or
 - (ii) limit in any substantial way, inconsistent with the Tender Document, the Purchaser or the Employer's rights or the tenderer's obligations under the proposed Contract; or
 - (b) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive Tenders.
- 28.4 The Purchaser or the Employer shall examine the technical aspects of the Tender in particular, to confirm that all requirements of Section V: Requirements have been met without any material Deviation, Reservation, or Omission.
- 28.5 If a Tender is not substantially responsive to the requirements of the Tender Document, it shall be rejected by the Purchaser or the Employer and may not subsequently be made responsive by correction of the material Deviation, Reservation, or Omission.
- 29. Nonmaterial Nonconformities**
- 29.1 Provided that a Tender is substantially responsive, the Purchaser or the Employer may waive any quantifiable nonconformities in the Tender that do not constitute material Deviations, Reservations or Omissions. The cost of all quantifiable deviations or omissions shall be added to the tender price in question. A reasonable estimate of the cost will be made by the Purchaser or Employer, taking into consideration the corresponding tender prices of other responsive tenderers or other appropriate market prices. Such costs will be at the Purchaser's or Employer's sole discretion. A tenderer will not be requested or permitted to offer a price adjustment for rectifying such deviations or omissions. Deviations and other factors that are in excess of the requirements of the tender documents or otherwise result in unsolicited benefits for the Purchaser or the Employer shall not be taken into account in tender evaluation.

- 29.2 Provided that a Tender is substantially responsive, the Employer may request the Tenderer to submit any necessary missing information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the Tender. Requested information or documentation on such nonconformities shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

F. TENDER EVALUATION AND COMPARISON

- | | |
|--|---|
| 30. Evaluation of Tenders and Correction of Arithmetical Errors | <p>30.1 The Purchaser or the Employer shall use the criteria and methodologies indicated in Section III: Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted.</p> <p>30.2 Provided that the Tender is substantially responsive, the Purchaser or the Employer shall correct arithmetical errors on the following basis:</p> <ul style="list-style-type: none"> (a) Where there are errors between the total of the amounts given under the column for the price breakdown and the amount given under the Total Price, the former shall prevail and the latter will be corrected accordingly; (b) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser or the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected accordingly; (c) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and (d) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above. <p>30.3 If a tenderer does not accept the correction of errors, its Tender shall be declared non-responsive and rejected and its tender security may be forfeited.</p> |
| 31. Conversion to Single Currency | <p>31.1 For evaluation and comparison purposes, the currency(ies) of the Tender shall be converted into a single currency as specified in Section III: Evaluation and Qualification Criteria.</p> |
| 32. Tender Adjustments | <p>32.1 For the evaluation and comparison purposes the Purchaser or the Employer shall adjust the Tender prices using the criteria and methodology specified in Section III: Evaluation and Qualification Criteria.</p> |
| 33. Qualification of the Tenderer | <p>33.1. The Purchaser or the Employer shall determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated and substantially responsive Tender meets the qualifying criteria specified in Section III: Evaluation and Qualification Criteria.</p> <p>33.2. The determination shall be based upon an examination of the documentary evidence of the tenderer's qualifications submitted by the tenderer, pursuant to ITT 16.</p> <p>33.3. An affirmative determination shall be a prerequisite for award of the Contract to the tenderer. A negative determination shall result in disqualification of the Tender, in which event the Purchaser or the Employer shall proceed to the next lowest evaluated Tender to make a similar determination of that tenderer's qualifications to perform satisfactorily.</p> <p>33.4. Notwithstanding the provisions of ITT 33.3, the Purchaser or the Employer reserves the right to waive any minor deviations from the qualifying criteria specified in Section III: Evaluation and Qualification Criteria that do not materially affect the</p> |

capability of the Tenderer to perform the Contract.

34. Purchaser or Employer's Right to Accept Any Tender, and to Reject Any or All Tenders

34.1 The Purchaser or the Employer reserves the right to accept or reject any tender, and to annul the Tendering process and reject all Tenders at any time prior to contract award, without thereby incurring any liability to tenderers. In case of annulment, all Tenders submitted and specifically, Tender securities, shall be promptly returned to the tenderers.

G. AWARD OF CONTRACT

35. Award Criteria

35.1 The Purchaser or the Employer shall award the Contract to the tenderer whose Tender has been determined to be the lowest evaluated Tender and is substantially responsive to the Tender Document, provided further that the tenderer is determined to be qualified to perform the Contract satisfactorily.

36. Notification of Award

36.1 Prior to the expiration of the period of Tender validity, the Purchaser or the Employer shall notify the successful tenderer, in writing, that its Tender has been accepted.

36.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

36.3 At the same time, the Purchaser or Employer shall also notify all other tenderers of the results of the tendering exercise, and shall publish in the Bank's website the results identifying the Tender and lot numbers and the following information: (i) name of each tenderer who submitted a Tender; (ii) Tender prices as read out at Tender opening; (iii) name and evaluated prices of each Tender that was evaluated; (iv) name of tenderers whose Tenders were rejected and the reasons for their rejection; and (v) name of the winning tenderer, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful tenderers may request in writing to the Purchaser or the Employer for a debriefing seeking explanations on the grounds on which their Tenders were not selected. The Purchaser or the Employer shall promptly respond in writing to any unsuccessful tenderer who, after publication of contract award, requests a debriefing.

37. Signing of Contract Agreement

37.1 Promptly upon notification, the Purchaser or the Employer shall sign and send the successful tenderer the Contract Agreement.

37.2 Within twenty-eight (28) calendar days of receipt of the Contract Agreement, the successful tenderer shall sign, date, and return it to the Purchaser or the Employer.

37.3 Upon the successful tenderer's furnishing of the signed Contract Agreement and Performance Security pursuant to ITT 38, the Purchaser or Employer will discharge its tender security, pursuant to ITT 19.

38. Performance Security

38.1 If so required in the TDS, within twenty-eight (28) days of the receipt of notification of award from the Purchaser or the Employer, the successful tenderer shall furnish the performance security in accordance with the conditions of contract, using for that purpose the Performance Security Form included in Section VIII: Annex to the PCC - Contract Forms, or another form acceptable to the Purchaser or the Employer. If the performance security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer's Country.

38.2 Failure of the successful tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security. In that event the Purchaser or the Employer may award the Contract to the next lowest evaluated tenderer whose offer is substantially responsive and is determined by the Purchaser or the Employer to be qualified to perform the Contract satisfactorily.

H. COMPLAINTS**39. Complaint Procedure**

39.1 In the event that any tenderer wishes to submit a formal complaint with regard to any aspect of the procurement process, the tenderer shall follow the procedures contained in Annex 1: Guidance to Tenderers of the Bank's Procurement Policies and Rules (PP&R) (see - www.ebrd.com/news/publications/policies/procurement-policies-and-rules.html). Further information in this respect is also published on the Bank's website (see - www.ebrd.com/work-with-us/procurement/project-procurement-complaints.html).

Section II: Tender Data Sheet

TABLE OF CONTENTS

A. Scope of Tender.....	17
B. Preparation of Tenders	18
C. Submission of Tenders.....	19
D. Award of Contract.....	19

Section II: Tender Data Sheet, provides the specific information in relation to corresponding paragraphs in Section I: Instructions to Tenderers, and must be prepared by the Employer for each specific procurement.

The Employer should specify in the Tender Data Sheet information and requirements specific to the circumstances of the Employer, the processing of the procurement, the applicable rules regarding tender prices, currency and the tender evaluation criteria that will apply to the tenders. In preparing Section II, the following aspects should be verified:

- (a) Information that specifies and complements provisions of Section I must be incorporated.**
- (b) Amendments and/or supplements, if any, to provisions of Section I, as necessitated by the circumstances of the specific procurement, must also be incorporated**

Boxed guidance notes and provisions in italic font are illustrative provisions containing instructions and guidance which the drafter should follow. They are not part of the text, and should not be included in the final tender document. All reference numbers provided in this Section shall be construed as reference numbers in Section I: Instruction to Tenderers (ITT).

A. Scope of Tender

1.1 The Employer is: *[specify the name of the Employer]*

1.1 The name of the Tender process is: *[insert complete name]*

The identification number of the Tender process is: *[insert identification number]*

The number and identification of contracts for which the tender documents are issued: *[insert the number of contracts]*

2 Source of Funds

2.1 The Borrower is: *[specify the name of the Borrower]*

2.2 The name of the Project is: *[insert name of the Project]*

7 Clarification of Tender Document, Site Visit, Pre-tender meeting

7.1 For clarification purposes only, the Employer's contact details are:

Attention: *[insert full name of person, if applicable]*

Street Address: *[insert street address and number]*

Floor/Room number: *[insert floor and room number, if applicable]*

City: *[insert name of city or town]*

Postal Code: *[insert postal (ZIP) code, if applicable]*

Country: *[insert name of country]*

Facsimile number: *[insert phone number, with country and city codes]*

email address: *[insert email address, if applicable]*

The deadline for clarification requests should normally be set at the date no later than 14 days prior to the deadline for submission of Tenders

Requests for clarification should be received by the Employer no later than *[insert no. of days]*, prior to the deadline for submission of Tenders.

B. Preparation of Tenders

10 Language of the Tender

10.1 The language of the tender is: *[insert language]*

11 Documents Comprising the Tender

11.1 The Tender shall comprise the following documents:

- (a) Letter of Tender, Appendix and Attachment 1 to the Letter of Tender – Covenant of Integrity;
- (b) Completed Bill of Quantity;
- (c) Tenderer Information and Qualification Forms as listed in Section IV: Tender Forms;
- (d) Preliminary work programme;
- (e) Description of the proposed construction arrangements and method statements, and;
- (f) Equipment and personnel which the tenderer proposes to adopt for the execution of the works.

[insert any other documentary requirements, for example, Tender Security (if so required by ITT 19.1), written confirmation of authorization (if so required by ITT 20.2, requirements for construction licenses) etc.]

14 Tender Prices and Discounts

14.1 The prices quoted by the Tenderer in the Letter of Tender shall be fixed and will not be subject to adjustment during the performance of the contract.

14.2 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the tenderer.

15 Currency(ies) of the Tender

15.1 The prices shall be quoted by the Tenderer entirely in *[specify the currency of the tender]*. All payments under the Contract shall be made in the currency of the Tender.

18 Period of Validity of Tenders

18.1 *[Insert the number of days deemed appropriate by the Employer. The period should be sufficient to permit completion of evaluation and comparison of tenders, review of the evaluation report by the Bank (if so required), obtaining of all necessary approvals and notification of the award. Typically, the validity period should be 45 days. A realistic period should be specified in order to avoid the need for extensions].*

The tender validity period shall be: *[insert the number of days]* calendar days from the closing date of the tender.

19 Tender Security

19.1 A tender security *is/is not* required.

[amend as appropriate – if a tender security is required, the draft tender security contained in the Bank's STD for Works (available at www.ebrd.com/work-with-us/procurement/project-procurement/standard-procurement-documents.html) shall be included in Section IV: Tender Forms].

[Insert amount deemed appropriate by the Employer. The amount shall be expressed as a fixed amount. Tender security will be normally in the range of 2-5 per cent of the estimated cost of the Goods and Services].

If a tender security is required, the amount and currency of the tender security shall be *[insert amount in figures and words and currency]*.

The issuing bank of the tender security shall have a minimum credit rating of: *[insert details of*

minimum credit rating or delete this provision]

C. Submission of Tenders

20 Format and Signing of Tender

20.1 In addition to the original version of the tender, the number of copies required is: *[insert number of copies]*.

20.2 No written confirmation of authorisation to sign on behalf of the Tenderer is required. *[if such written confirmation is required, replace text and provide details of the required format and include in TDS 11.1 (e)]*.

22 Deadline for Submission of Tenders

For tender submission purposes only, the Employer 's address is:

Attention: *[insert full name of person, if applicable]*

22.1 Employer name: *{Insert name}*

Street Address: *[insert street address and number]*

Floor/Room number: *[insert floor and room number, if applicable]*

City: *[insert name of city or town]*

Postal Code: *[insert postal (ZIP) code, if applicable]*

Country: *[insert name of country]*

[The minimum period for the preparation of tenders shall not be less than 28 days].

The deadline for Tender submission is:

Date: *[insert date (as day, month, and year)]* Time: *[insert the time and time zone]*

25 Tender Opening

25.1 The Tender opening shall take place at:

Name: *[insert Employers or organisation name]*

Street Address: *[insert street address and number]*

Floor/Room number: *[insert floor and room number, if applicable]*

City: *[insert name of city or town]*

Postal Code: *[insert postal (ZIP) code, if applicable]*

Country: *[insert name of country]*

Date: *[insert date (as day, month, and year)]*

Time: *[insert the time and time zone]*

[The date for Tender opening shall be the same as for tender submission specified under ITT Para 22.1 above. The time should also be the same as specified under ITT Para 22.1 or immediately thereafter].

D. Award of Contract

38 Performance Security

38.1 A performance security *is/is not* required.

[amend as appropriate – if a performance security is required, the draft performance security contained in the Bank's STD for Works (available at www.ebrd.com/work-with-us/procurement/project-procurement/standard-procurement-documents.html) shall be included in Section VIII: Annex to the PCC - Contract Forms].

Section III: Evaluation and Qualification Criteria

TABLE OF CONTENTS

A: Evaluation Criteria and Methodology	21
B: Qualification Criteria.....	21

This Section contains all the criteria that the Employer shall use to evaluate tenders and qualify Tenderers. In accordance with ITT 30.1, no other factors, methods or criteria shall be used.

A: Evaluation Criteria and Methodology

ITT 30.1 Evaluation of Tenders and Correction of Arithmetical Errors

The evaluation of tenders and the correction of arithmetical errors shall be undertaken by the Employer in accordance with the following methodology:

- (a) All tenders submitted pursuant to ITT 25 shall be subjected to an arithmetical check. In the event that any tender is identified as containing an arithmetical error, the tender price shall be corrected in accordance with the provisions of ITT 30.2.
- (b) The cost of VAT (as stated in the Letter of Tender) shall be excluded from the tender prices for evaluation and comparison purposes.
- (c) For the purposes of comparison and evaluation of tenders, any provisional sums and/or contingencies shall be excluded from the total tender prices. Where priced competitively, the tender price for Dayworks, shall be added to the total tender price for comparison purposes.
- (d) Following steps a), b) and c) above, the Employer shall rank the tenders in terms of total tender price and subject the lowest priced tender only to a detailed evaluation to determine whether the tender is substantially responsive to the tender documents in accordance with the provisions of ITT 28 and ITT 29.
- (e) In the event that the lowest priced tender is determined to be substantially responsive in accordance with the provisions of ITT 28 and ITT 29, the Employer shall establish whether the tenderer is qualified to perform the contract in accordance with the provisions of Section B: Qualification Criteria below. In the event that the tenderer is determined to be qualified to perform the contract in accordance with ITT 33.1 the tenderer shall be determined as eligible for contract award in accordance with ITT 35.
- (a) In the event that the lowest priced tender is determined to be substantially non-responsive to the tender documents in accordance with ITT 28 and ITT 29 the tender shall be rejected and the above procedure shall be applied to the second lowest priced tender and so forth.
- (f) In the event that the lowest priced tender is determined to contain a quantifiable deviation or omission in accordance with ITT 29.1, the cost of the deviation shall be added to the tender price for the purposes of establishing the evaluated tender price. If, the cost of the deviation or omission does not impact upon the ranking of the lowest priced tenderer, the Employer will proceed in accordance with para e) above. If the cost of the deviation or omission does impact upon the ranking of the lowest priced tenderer, the Employer shall reassess the ranking of the tenderers and then proceed in accordance with para e) above.
- (g) In the event that the tenderer that has submitted the lowest tender price or the lowest evaluated tender price in accordance with the above is not determined to be qualified to perform the contract in accordance with ITT 33.1, the tender shall be rejected and the Employer shall make a similar determination with regard to the second ranked tenderer and so forth.

B: Qualification Criteria

ITT 33.1 To be qualified for contract award in accordance with ITT 33.1, the Tenderer must demonstrate to the Employer that it substantially satisfies the requirements, specified below:

(a) **Average Annual Turnover**

Minimum average annual turnover of euro [*insert value*] (_____) within the last [*insert number*]; (_____) years and,

(b) Experience

Experience in the role of Contractor, in at least **[insert number]** () contracts within the last **[insert number]** () years, each with a value of at least **[insert value]** (), that have been successfully and substantially completed and that are similar to the proposed works. The similarity shall be based on the nature and complexity of the works compared with the works described in Section V: Requirements; and,

(c) Essential equipment _____
[insert details of essential equipment]

(d) Essential Key Personnel [insert details of essential personnel]	Position	Qualification	Experience
_____	_____	_____	_____

[Insert any specific requirements for Joint Ventures]

[Consider inserting additional requirements (and forms) from the STD for Works with regard to Non-Performance, Financial Resources and Financial Soundness, if appropriate]

In order to demonstrate compliance with the above mentioned qualification criteria, the Tenderer shall provide all the requested information in accordance with the forms provided in sub-section 3, Tenderer Information and Qualification Forms of Section IV: Tender forms. For the purpose of determining the euro equivalent of other currencies the euro equivalent value should be calculated at the exchange rate at the middle of each year reported, as set by the central bank of the Tenderer’s country or similar institution.

Section IV: Tender Forms

This Section contains Tender Forms which must be completed and submitted by the Tenderer.

TABLE OF FORMS

Letter of Tender	24
Attachment 1 to Letter of Tender Covenant of Integrity	26
Appendix to the Tender	28
Bill of Quantities.....	30
Tenderers Information and Qualification - Forms	31
Form A: Eligibility Tenderer Information Sheet.....	31
Form B: Average Annual Construction Turnover	32
Form C: Specific Construction Experience	33
Form D: Contractor's Equipment	34
Form E: Resume of Proposed Personnel.....	35

Letter of Tender

Note for Tenderers: The Tenderer must prepare the Letter of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and address. All text within square brackets [] is for guidance in preparing this form and shall be deleted by the Tenderer from the final document.

Date:
Tendering No:
Invitation for Tender No.:

To: _____

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Tender Documents, including Addenda issued in accordance with ITT 8;
- (b) We offer to execute in conformity with the Tender Documents the following Works:
_____;
- (c) The total price of our Tender, excluding any discounts offered in item (d) below, **exclusive** of VAT, is: _____ [enter figures and words]

Delete the following if VAT is not to be included in the tender price

and the total price of our Tender, excluding any discounts offered in item (d) below, **inclusive** of VAT, is: _____ [enter figures and words];

- (d) The discounts offered and the methodology for their application are:
_____;
- (e) Our Tender shall be valid for a period of _____ [insert validity period as specified in ITT 18.1.] days from the date fixed for the Tender submission deadline in accordance with the Tender Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) We acknowledge that the Appendix to the Tender and Attachment 1 to the Letter of Tender – Covenant of Integrity, form part of this Letter of Tender.
- (g) If our Tender is accepted, we commit to obtain a performance security in accordance with the Tender Document [if a performance security is not required delete this provision];

- (h) Our firm, including any subcontractors or suppliers and subsuppliers for any part of the Contract, have nationalities from eligible countries;
- (i) We, including any subcontractors or suppliers and subsuppliers for any part of the contract, do not have any conflict of interest in accordance with ITT 4.4;
- (j) We, including any of our subcontractors or suppliers for any part of the Contract, have not been declared ineligible by the Bank, under the Employer’s country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council.
- (k) We are not participating as a Tenderer or as a partner in a JVCA in more than one Tender in this Tendering process in accordance with ITT 4.4(e), other than alternative offers submitted in accordance with ITT 13;
- (l) We are not a government owned entity / We are a government owned entity but we meet the requirements stated in ITT 4.6 **(use one of the two options as appropriate)**;
- (m) We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract:

Name of Recipient	Address	Reason	Amount

(If no one has been paid or is to be paid, indicate “No One.”)

- (n) We understand that this Tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (o) We understand that you are not bound to accept the lowest evaluated Tender or any other Tender that you may receive; and
- (p) If awarded the contract, the person named below shall act as Contractor’s Representative:

Name:	
In the capacity of:	
Signed:	
Duly authorised to sign the Tender for and on behalf of:	
Date:	

Attachment 1 to Letter of Tender Covenant of Integrity

To: _____(insert name of Employer)_____

We declare and covenant that neither we nor anyone, including any of our directors, employees, agents, joint venture partners, consultants or sub-contractors, where these exist, acting on our behalf with due authority or with our knowledge or consent, or facilitated by us, has engaged, or will engage, in any Prohibited Practice (as defined below) in connection with the tendering process or in the execution or supply of any works, goods or services for **[insert the name of the contract]** (the "Contract") and covenant to so inform you if any instance of any such Prohibited Practice shall come to the attention of any person in our organisation having responsibility for ensuring compliance with this Covenant.

We shall, for the duration of the tender process and, if we are successful in our tender, for the duration of the Contract, appoint and maintain in office an officer, who shall be a person reasonably satisfactory to you and to whom you shall have full and immediate access, having the duty, and the necessary powers, to ensure compliance with this Covenant.

We declare and covenant that, except for the matters disclosed in this Covenant of Integrity:

- (i) we, our subsidiaries and affiliates, and all of our directors, employees, agents or joint venture partners, where these exist, have not been convicted in any court of any offence involving a Prohibited Practice in connection with any tendering process or provision of works, goods or services during the ten years immediately preceding the date of this Covenant;
- (ii) none of our directors, employees, agents or a representatives of a joint venture partner, where these exist, has been dismissed or has resigned from any employment on the grounds of being implicated in any Prohibited Practice;
- (iii) we, our subsidiaries and affiliates and our directors, employees, agents or joint venture partners, where these exist, are not prohibited from participation in a tendering procedure on the grounds of having been found by the final judgement of a judicial process or a finding by the enforcement (or similar) mechanism of another international organisation to have engaged in a Prohibited Practice;
- (iv) we, our subsidiaries and affiliates, as well as any subcontractors, or suppliers or affiliates of the subcontracts or supplier are not subject to any sanction imposed by resolution of the United Nations Security Council.

If applicable, provide full disclosure of any convictions, dismissal, resignations, exclusions or other information relevant to Articles i) ii) iii) (iv) (v) (vi) or (vii) in the box below.

Name of Entity Required to be Disclosed	Reason Disclosure is Required ³

For the purpose of this Covenant, the terms set forth below define Prohibited Practices as one or more of the following:

- (i) a **"Corrupt Practice"** which means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- (ii) a **"Fraudulent Practice"** which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

³ For each matter disclosed, provide details of the measures that were taken, or shall be taken, to ensure that neither the disclosed entity nor any of its directors, employees or agents commits any Prohibited Conduct in connection with the Tender for this Contract.

- (iii) a **“Coercive Practice”** which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party to influence improperly the actions of a party;
- (iv) a **“Collusive Practice”** which means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- (v) a **“Theft”** which means the misappropriation of property belonging to another party;
- (vi) a **“Misuse of Bank’s Resources or Bank Assets”** which means improper use of the Bank’s Resources or Bank Assets, committed either knowingly or recklessly; and,
- (vii) an **“Obstructive Practice”** which means any of (1) destroying, falsifying, altering or concealing of evidence material to a Bank investigation, which impedes the Bank’s investigation; (2) making false statements to investigators in order to materially impede a Bank investigation into allegations of a Prohibited Practice; (3) failing to comply with requests to provide information, documents or records in connection with a Bank investigation; (4) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Bank investigation or from pursuing the investigation; or (5) materially impeding the exercise of the Bank’s contractual rights of audit or inspection or access to information.

Following the submission of our tender, we grant the project financier, the European Bank for Reconstruction and Development (EBRD) and/or persons appointed by them, the right of inspection of our, and any proposed subcontractors, accounts and records and permission to have any such accounts and records audited by auditors appointed by the Bank, if required by the Bank. We accept to preserve these records generally in accordance with applicable law but in any case for at least six years from the date of substantial performance of the Contract.

We further declare that no affiliate of the Employer is participating in our tender in any capacity whatsoever.

Name:	
In the capacity of:	
Signed:	
Duly authorised to sign for and on behalf of:	
Date:	

Appendix to the Tender

With the exception of those requirements for which the Employer's requirements have been inserted, the following information must be completed before the tender is submitted.

All reference Clauses and Sub-clauses provided in the Appendix to Letter of Tender shall be construed as reference Clauses and Sub-clauses in Section VI: General Conditions of Contact.

** Employer to amend as appropriate*

Item	Sub-Clause	Data
Documents forming the Contract listed in the order of priority . . .	1.1.1	
Document (delete if not applicable)		Document Identification
(a) The Agreement		_____
(b) Particular Conditions		_____
(c) General Conditions		_____
(d) The Specification		_____
(e) The Drawings		_____
(f) The Contractor's tendered design		_____
(g) The Bill of Quantities		_____
(h)		_____
(i)		_____
Time for Completion	1.1.9	_____ days
Law of the Contract	1.4	Law of the Country* _____
Language	1.5	_____
Provision of Site	2.1	_____ days after Commencement Date
Authorised person	3.1	_____
Name and address of Employer's representative (if known)	3.2	_____
Performance security (if any):		
Amount	4.4	_____
Form	4.4	_____
Requirements for Contractor's design (if any)	5.1	Specification Clause No's.....
.....		_____
Programme:		_____

Item	Sub-Clause	Data
Time for submission.....	7.2	Within 14 days* of Commencement Date
Form of Programme.....	7.2	
Amount payable due to failure to complete.....	7.4	_____ per day up to a maximum of 10%* of the final contract price.
Period for notifying defects.....	9.1 & 11.5 ...	365 days* calculated from the date stated in the notice under Sub-Clause 8.2
Variation procedure		
Daywork rates.....	10.2 ...	_____(details)
Valuation of the Works		
Remeasurement with Bill of Quantities.....	11.1	_____(details)
Percentage of value of Materials and Plant.....	11.2	Materials _____ 80%* Plant _____ 90%*
Percentage of retention	11.3	_____5%
Currency of payment	11.7	
Rate of interest	11.8	_____ % per annum
Insurances	14.1	
Type of cover*	Amount of cover*	Exclusions*
The Works, Materials, Plant and fees	The sum stated in the Agreement plus 15%	_____
Contractor's Equipment	Full replacement cost	_____
Third Party injury to persons and damage to property		_____
Workers		_____
Other cover*		_____
Arbitration		
Rules	15.3	UNCITRAL Arbitration Rules* (details)
Appointing authority	15.3	President of FIDIC or his nominee* (details)
Place of Arbitration	15.3 .	_____ The Country*

Bill of Quantities

These notes for preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the tender documents. They should not be included in the final documents.

Objectives

The objectives of the Bill of Quantities are:

- (a) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and contents of the Bill of Quantities should be as simple and brief as possible.

Daywork Schedule

A Daywork Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the Employer of the realism of rates quoted by the bidders, the Daywork Schedule should normally comprise the following:

- (a) A list of the various classes of labor, materials, and Constructional Plant for which basic daywork rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Contractor shall be paid for work executed on a daywork basis.
- (b) Nominal quantities for each item of daywork, to be priced by each Bidder at daywork rates as Bid. The rate to be entered by the Bidder against each basic daywork item should include the Contractor's profit, overheads, supervision, and other charges.

Provisional Sums

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary priced Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Special Conditions of Contract should state the manner in which they shall be used, and under whose authority (usually the Project Manager's).

These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the Bidding Documents. They should not be included in the final documents.

Tenderers Information and Qualification - Forms

To establish its qualifications to perform the Contract in accordance with Section III: Evaluation and Qualification Criteria, the Tenderer shall provide the information requested in the corresponding Information Sheets included hereunder.

Form A: Eligibility Tenderer Information Sheet

Tenderer's Legal Name: _____

Date: _____

JVCA Partner's Legal Name: _____

Tender No.: _____

Page _____ of _____ pages

Tenderer Information	
Tenderer's legal name	
In case of JVCA, legal name of each partner	
Tenderer's actual or intended country of constitution, Incorporation, or Registration	
Tenderer's year of constitution, Incorporation, or Registration	
Tenderer's legal address in country of constitution	
Tenderer's authorized representative (name, address, telephone numbers, email address)	

Form B: Average Annual Construction Turnover

Tenderer's Legal Name: _____

Date: _____

JVCA Partner's Legal Name: _____

Tender No.: _____

Page _____ of _____ pages

Each Tenderer or member of a JVCA must fill in this form

Annual Turnover Data for the Last 3 Years (Construction only)			
Year	Amount Currency	Exchange Rate	euro Equivalent*
Average Annual Construction Turnover**			

The information supplied should be the Annual Turnover of the Tenderer or each member of a JVCA in terms of the amounts billed to clients for each year for work in progress or completed, converted to euros at the rate of exchange at the end of the period reported.

**For the purpose of determining the euro equivalent of other currencies the euro equivalent value should be calculated at the exchange rate at the middle of each year reported, as set by the central bank of the Tenderer's country or similar institution.*

***Average annual construction turnover is calculated as the total certified payments received for supply in progress or completed, divided by the number of years specified in Section III: Evaluation and Qualification Criteria, Sub-Factor 2.3.2.*

Form C: Specific Construction Experience

Tenderer's Legal Name: _____

Date: _____

JVCA Partner's Legal Name: _____

Tender No.: _____

Page _____ of _____ pages

**Each Tenderer or member of a JVCA must complete this form.
Complete one (1) form per Contract.**

Contract of Similar Size and Nature			
Contract No of	Contract Identification		
Award Date		Completion Date	
Role in Contract	Contractor	Management Contractor	Subcontractor
Total Contract Amount	euro		
If partner in a JVCA or subcontractor, specify participation of total Contract amount	Percent of Total	Amount	
Employer's Name Address Telephone/Fax Number email			
Description of the similarity in accordance with Criteria 2.4.2(a) of Section III: Evaluation and Qualification Criteria			

Form D: Contractor's Equipment

Tenderer's Legal Name: _____

Date: _____

JVCA Partner's Legal Name: _____

Tender No.: _____

Page _____ of _____ pages

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III: Evaluation and Qualification Criteria, Section B. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer. The Tenderer shall provide all the information requested below, to the extent possible. Fields with asterisk (*) shall be used for evaluation.

Type of Equipment*					
Equipment Information	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Name of manufacturer</td> <td style="width: 50%;">Model and power rating</td> </tr> <tr> <td>Capacity*</td> <td>Year of manufacture*</td> </tr> </table>	Name of manufacturer	Model and power rating	Capacity*	Year of manufacture*
Name of manufacturer	Model and power rating				
Capacity*	Year of manufacture*				
Current Status	Current location				
	Details of current commitments				
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured				

The following information shall be provided only for equipment not owned by the Tenderer.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	email address:
Agreements	Details of rental / lease / manufacture agreements specific to the project	

Section V: Requirements

[To be inserted by the Employer]

A set of precise and clear requirements and technical specifications is a prerequisite for tenderers to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their bids. In the context of international competitive bidding, the technical specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done shall the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of bids be ensured, and the subsequent task of tender evaluation facilitated. The technical specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Care must be taken in drafting technical specifications to ensure that they are not restrictive and recognized international standards should be used as much as possible. Where other particular standards are used, whether national standards of the Employers' country or other standards, the technical specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, shall also be acceptable. To that effect, the following sample clause may be inserted in the technical specifications.

Equivalency of Standards and Codes. *Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract.*

Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified shall be accepted subject to the Employer's prior review and written consent.

Drawings.

If applicable, insert a list of Drawings. The actual Drawings, including site plans, should be attached to this section or annexed in a separate volume

These notes for preparing technical specifications are intended only as information for the Employer or the person drafting the tender documents. They should not be included in the final documents.

Section VI: Part A: General Conditions of Contract (GCC)

The General Conditions of Contract shall be those forming part of the “Short Form of Contract”, first edition, 1999, prepared by the Fédération Internationale des Ingénieurs-Conseils (FIDIC) **with the exception that the “Agreement” and the “Appendix to the Agreement” are deleted.** The General Conditions are subject to the variations and additions set out in Section VII hereof entitled “Part B: Particular Conditions of Contract (PCC)”.

[Add the following text if the tender documents, as issued, do not include a copy]

Copies of the FIDIC Conditions of Contract can be obtained from:

FIDIC Secretariat
P.O. Box 86
CH-Lausanne 12
Switzerland
Facsimile: 41 21 653 5432
Telephone: 41 21 654 4411
E-mail: fidic@pobox.com
Website: www.fidic.org

Section VII: Particular Conditions of Contract (PCC)

The following Particular Conditions of Contract (PCC) shall supplement the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Boxed guidance notes and provisions in italic font contain instructions and guidance which the drafter should follow. They are not part of the text and should not be included in the final document. All reference Clauses and Sub-clauses provided in the Particular Conditions of Contract shall be construed as reference Clauses and Sub-clauses in Section VII: General Conditions of Contract.

GCC reference	Particular Conditions of Contract
1.1 Definitions	<p>Following Sub-Clause 1.1.19 insert:</p> <p>1.1.7 The text in the GCC is deleted and replaced with the following: ‘Commencement Date’. The starting date for the Contract is 14 days after the date when the Contractor receives the Agreement signed by the Employer, unless the parties agree otherwise.</p> <p>1.1.20 ‘Bank’ means the European Bank for Reconstruction and Development (EBRD).</p>
1.7 Inspections and Audit by the Bank	<p>Following Sub-Clause 1.6 insert: The Contractor shall permit the Bank and/or persons appointed by the Bank to inspect the Site and/or the Contractor’s (including its suppliers, sub-suppliers, subcontractors, consultants or sub-consultants) accounts and records relating to the performance of the Contract and to have such accounts and records audited by auditors appointed by the Bank if required by the Bank.</p> <p>The Contractor shall maintain all documents and records related to the Contract in accordance with applicable law but in any case for at least six years from the date of substantial performance of the Contract.</p> <p>The Contractor shall provide any documents necessary for the investigation of allegations of Prohibited Practices and require its employees or agents with knowledge of the Contract to respond to questions from the Bank.</p>
4.4 Performance Security	<p><i>[If a performance security is required include the below additional text. If a performance security is not required delete this sub-clause in its entirety].</i></p> <p>Add the following text to sub-clause 4.4:</p> <p>The performance security shall be issued by a reputable bank selected by the Contractor, and shall be in the form provided in the tender document or in another form approved by the Employer.</p>
4.5 Staff and Labour	<p>Insert the following:</p> <p>4.5.1 The Contractor shall establish Human Resource policies in accordance with the governing Law. The Contractor shall document and communicate to all workers their working conditions and terms of employment, including their entitlement to wages, hours of work, overtime arrangements and overtime compensation, and any benefits (such as leave for illness, maternity / paternity or holiday).</p> <p>4.5.2 Where the Contractor is party to a collective agreement or is otherwise bound by it, the Contractor shall comply with its terms and conditions. Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. Deductions must never lead to an employee receiving less than the applicable minimum wage.</p> <p>4.5.3 All workers shall be provided with clearly understandable verbal and written information about the conditions in respect of wages before they enter employment and of</p>

GCC reference	Particular Conditions of Contract
	<p>the particulars of their wages for the pay period concerned each time that they are paid. Wages shall be paid in legal tender in full, on time and directly to the workers concerned. The Contractor shall maintain records of all payments and deductions made.</p>
	<p>4.5.4 The Contractor shall ensure that obligations to staff and labour under labour, health and safety and social security laws and regulations arising from the employment relationship shall not be avoided through the use of labour-only contracting arrangements.</p>
	<p>4.5.5 Where the Contractor provides living accommodation for workers, the accommodation shall be appropriate for its location and be clean, safe and, at a minimum, meet the basic needs of workers. The accommodation shall comply with national legislation and, where possible, follow international good practice as set out in the IFC / The Bank's Public Guidance. The Contractor shall ensure that workers' freedom of movement to and from the accommodation is not unduly restricted.</p>
	<p>4.5.6 The Contractor shall ensure that a grievance mechanism is available to all workers and their organisations to use without fear of intimidation or retaliation. The Contractor will ensure that employees are informed about the grievance mechanism and that this is part of the training for new employees and information is posted in relevant areas on Site. The Contractor shall ensure that the grievance mechanism involves an appropriate level of management and addresses concerns promptly, using an understandable and transparent process that provides feedback to those concerned without any retribution.</p>
	<p>4.5.7 The Contractor shall provide the Employer with a written Health and Safety Policy and a project-specific Health and Safety Plan (the Plan) before the commencement of work. The Plan shall identify all risks specific and relevant to the project and shall provide information explaining how the identified risks will be managed by the Contractor. The Plan shall include details of the Contractor's OHS management system, including the Contractor's plans to manage and monitor the health and safety risks associated with all construction work under its control. The Plan shall be made available to the Bank(s) prior to the start of Construction.</p>
	<p>Every Contractor shall plan, manage and monitor construction work carried out by him or under his control in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health and safety. In instances where the Contractor is a joint venture, consortium or a similar entity, the Contractor shall coordinate its planning, management and monitoring activities in a manner that will ensure that any overlap does not create any potential risks to third parties.</p>
	<p>All work related tasks shall be risk assessed before any work is undertaken. All significant hazards shall be identified and control measures introduced to reduce foreseeable risks of injury and ill health, so far as is reasonable practicable. High regard shall be given in particular to assess and control the following specific activities and these shall be documented in the Health and Safety Plan;</p>
	<ul style="list-style-type: none"> • Working at Heights; • Lifting Operations; • Movement of vehicles and mobile work equipment; • Ground disturbance and excavations; and, • Working with and around live electrical conductors.
	<p>The Contractor shall ensure that a safe and healthy working environment is provided and that good international occupational health and safety practice is promoted. The Contractor shall take steps to prevent accidents, injury and disease arising in the course of work by identifying and controlling risks to workers, third parties and affected communities, so as far as is reasonably practicable. The Contractor shall ensure that all staff, labourers and persons entitled to be on site receive the necessary supervision, information, instruction and training to do their jobs in a manner that does not place themselves or third parties at risk. With regard to any unauthorised site visitors, the Contractor shall familiarise itself with, and comply with, any relevant provisions of the Applicable Law. Where appropriate, the Contractor shall provide equipment to minimise health and safety risks and enforce its use.</p>

GCC reference	Particular Conditions of Contract
	The Contactor shall carry out a risk assessment to ensure the correct selection of equipment is made for every task. The work equipment shall be in good working condition, designed for the specific task and not improvised in any way. The Contractor shall put in place arrangements for emergency prevention, preparedness and response.
8 Taking-Over	<i>[The Employer shall ensure that the provisions of this clause are consistent with the taking-over procedures prescribed in the appropriate legislation.]</i>
10.2 Valuation of Variations	The text in 10.2 is deleted and replaced with the following:
	<p>Variations shall be valued as follows:</p> <ul style="list-style-type: none"> (a) where appropriate, at rates in the Contract; or, (b) in the absence of appropriate rates, the rates in the contract shall be used as the basis for valuation, or failing which; or, (c) at appropriate new rates, as may be agreed or which the Employer considers appropriate; or, (d) if the Employer so instructs, at dayworks rates set out in the Appendix for which the Contractor shall keep records of hours of labour and Contractor's Equipment, and of Materials used.
11.1.1 Taxes and Duties	<p>Following Sub-Clause 11.1 insert:</p> <p>The contract prices shall include all import duties and taxes that may be levied in accordance with the Country's laws and regulations, as of the date 28 days prior to the latest date for submission of tenders.</p>
12.1.1 Prohibited Practices	<p>Following Sub-Clause 12.1 insert:</p> <p>If the Employer determines, based on reasonable evidence, that the Contractor has engaged in Prohibited Practices, in competing for or in executing the Contract, the Employer may, after giving 14 days notice to the Contractor, terminate the Contract. For the purpose of this sub-clause Prohibited Practices are defined as one or more of the following:</p> <ul style="list-style-type: none"> (a) a "Coercive Practice" which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party to influence improperly the actions of a party; (b) a "Collusive Practice" which means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party; (c) a "Corrupt Practice" which means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; (d) a "Fraudulent Practice" which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; (e) a "Misuse of Bank's Resources or Bank Assets" which means improper use of the Bank's Resources or Bank Assets, committed either knowingly or recklessly; and, (f) an "Obstructive Practice" which means any of (1) destroying, falsifying, altering or concealing of evidence material to a Bank investigation, which impedes the Bank's investigation; (2) making false statements to investigators in order to materially impede a Bank investigation into allegations of a Prohibited Practice; (3) failing to comply with requests to provide information, documents or records in connection with a Bank investigation; (4) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Bank investigation or from pursuing the investigation; or (5) materially impeding the exercise of the Bank's contractual rights of audit or inspection or access to information. (g) a "Theft" which means the misappropriation of property belonging to another party.

Section VIII: Annex to the PCC - Contract Forms

This Section contains Contract Forms which once completed will constitute part of the Contract.

The Contract Agreement form shall only be completed by the successful Tenderer, after Contract award.

TABLE OF CONTENTS

1. Letter of Acceptance	43
2. Contract Agreement	44

1. Letter of Acceptance

[on letterhead paper of the Employer]

..... *[date]*

To: *[insert name and address of the Contractor]*

Subject: *[insert Notification of Award Contract No.]*

This is to notify you that your Tender dated *[insert date]* for execution of the *[insert name of the contract and identification number]* for the amount of *[insert amount (s) in figures and words and name(s) of currency(ies)]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

You are requested to furnish the Performance Security in the amount of *[insert amount (s) in figures and words and name(s) of currency(ies)]* within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included in Section VIII: Annex to the PCC - Contract Forms of the Tender Document.

If a Performance Security has not been requested the above provision should be deleted from the Letter of Acceptance

In accordance with ITT 37.2 of the Tender Document you are requested to sign, date and return the Agreement within 28 days of receipt.

Signed by:
Name and Title of Authorised Signatory
For and on behalf of the Employer
Name:
Address:
Date:

Attachment: Contract Agreement

2. Contract Agreement

THIS AGREEMENT is made on the [*insert date*]

BETWEEN

- (1) [*insert complete name and principle place of business of the Employer*] a [*insert description of type of legal entity, for example, an agency of the Ministry of {insert name of Ministry/agency} of the Government of {insert name of Country of the Employer}, or corporation incorporated under the laws of {insert name of Country of the Employer}*] and having its principal place of business at [*insert address of the Employer*] hereafter referred to as “the Employer”

And

- (2) [*insert name of the Contractor*], a corporation incorporated under the laws of [*insert country of the Contractor*] and having its principal place of business at [*insert address of Contractor*] (hereinafter referred to as “the Contractor”).

WHEREAS the Employer invited tenders for the execution of the Works, described as [*insert brief description of the Works*] and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects therein, and the Employer agrees to pay the Contractor the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents, in order of precedence, shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (a) the Letter of Acceptance
 - (b) the Letter of Tender
 - (c) the Addenda Nos [*insert addenda numbers if any*]
 - (d) the Particular Conditions
 - (e) the General Conditions
 - (f) the Specification, and,
 - (g) the Drawings
 - (h) the completed Schedules and any other documents forming part of the Contract.
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

Agreement to be executed in accordance with the laws of [*insert name of the borrowing country*] on the day, month and year indicated above.

Signed by:	Signed by:
Name and Title of Signatory	Name and Title of Signatory
For and on behalf of the Employer in the presence of	for and on behalf the Supplier in the presence of
Witness:	Witness:

Name:	Name:
Address:	Address:
Date:	Date: