



SCIENCE & TECHNOLOGY  
CENTER IN UKRAINE

## **Procurement Rules**

## Preamble and Code of Conduct

These Procurement Rules are the basis for the entire procurement process of the STCU. The management of the STCU shall on a regular basis:

- review and check procurement actions for compliance with these Procurement Rules,
- review and update these Procurement Rules taking into account the latest developments in best practice procurement, changes in the STCU's organizational structure and business environment, etc.

The award of contracts made by the STCU shall be subject to the principles of fair competition, equal treatment, non-discrimination, transparency, sound financial management, lack of conflict of interest, respect of the international trade standards. In this respect reference should be made to the STCU's Code of Conduct and in particular the following paragraphs should be given special attention with regard to procurement by the STCU.

Extracts from the STCU's Code of Conduct:

### **2 Our principles**

We – everyone who works at the STCU – follow certain principles when conducting business. These principles are the foundation of the STCU's Code of Conduct and for the policies that reinforce it. The STCU expects every employee, at every level, to conduct herself or himself in accordance with this Code of Conduct and will hold employees accountable for their conduct.

If employees do not comply with this Code of Conduct, they could be subject to counselling, review, reprimand, or further disciplinary review. However, the STCU Code of Conduct is always superseded in those areas where local legislation is applicable. For the STCU to be successful, we must continue to earn the trust and confidence of our customers and stakeholders. Each action and decision provides us with this opportunity.

These are the principles the STCU stands for. They point the way to conduct that makes for successful individuals and a successful organization.

#### **2.2 Objectivity and impartiality**

Employees should be fair and should not allow prejudice or bias, conflict of interest or influence of others to override objectivity.

Employees shall always act objectively and impartially, in the public interest and for the public good. They shall act independently within the framework of the policy fixed by the STCU and their conduct shall never be guided by personal or national interest or political pressure.

#### **2.4 Confidentiality**

STCU employees should respect the confidentiality of information acquired during the course of performing professional services and should not use or disclose any such information without proper and specific authority or unless there is a legal or professional right or duty to disclose.

#### **2.9 Non-discrimination and equal treatment**

The STCU respects the principle of non-discrimination and in particular, guarantees equal treatment for members of the public irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation. Thus, differences in treatment of similar cases must be specifically warranted by the relevant features

of the particular case in hand.

## **5 Conflict of interest**

### **5.1 Avoiding conflicts of interest**

We avoid any conflict of interest; that is, we avoid any situation where our personal interest interferes in any way or even appears to interfere with the interests of the STCU and the making of decisions with honesty and integrity. There are three broad guidelines for avoiding conflicts of interest:

- Any business decision for the STCU is to be based on merit and made strictly in the best interests of the STCU;
- No personal benefits, whether direct or indirect are to be derived for ourselves, family members or friends as a result of reaching business decisions on behalf of the STCU; and
- We are to avoid any situation that may – or even appear to – create a conflict of interest between our personal interests and those of the STCU. Areas of conflict of interest that may arise in the course of our day to-day work are covered in other sections. We have an obligation to declare any conflict of interest or any potential or perceived conflict of interest to management at any level or to the Management Committee.

### **5.2 Purchasing and suppliers**

We protect the STCU's reputation by refusing to make purchasing decisions based on favoritism, prejudice, preferential treatment or personal gain. We apply good financial and procurement practices, following the regulations and controls adopted in the STCU operating procedures, to ensure fair, open, appropriate, and cost-effective purchases. We refuse involvement in purchasing decisions that could lead to a conflict of interest, and we declare to our supervisor or to the Management Committee all conflicts or potential conflicts, seeking guidance from our manager or the Management Committee when we are uncertain.

### **5.3 Insider trading and personal advantage**

We do not divulge confidential or proprietary information that we learn in our work for our organization and its affiliates, and their customers and suppliers, to any unauthorized person, or release confidential information in advance of its authorized release. We do not use for private speculation or personal advantage, data or information that is not available to the general public.

## **6 Safeguarding Center Assets**

### **6.1 Acquisition of assets**

As per Section I.(4) of the STCU Financial Regulations approved by the STCU Board of Governors, the Chief Administrative Officer "Has the overall responsibility for approving the purchase of goods or services in support of projects and for purchasing goods and services for the Center". Any disagreement with the CAO related to asset acquisitions will be resolved at an STCU Management Meeting.

These Procurement Rules are issued in English; translations are available in Ukrainian and Russian. STCU is providing translations to facilitate communication, however the English version is the authoritative one and we are not responsible for any issues or problems that may arise because of discrepancies between this official version and any translation supplied by us or prepared by anyone else.

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## GENERAL PROVISIONS

### 1. Definitions

The following words and word combinations are used in these Procurement Rules with the following meanings:

**“Center”** means the Science and Technology Center in Ukraine (“STCU”) established under the Agreement to Establish the STCU dated the 25th of October 1993;

**“Center Parties”** mean the states – parties to the Agreement to Establish the STCU, namely Azerbaijan, Canada, the European Union, Georgia, Moldova, Ukraine, the United States of America, and Uzbekistan;

**“Chief Administrative Officer”** means head of the Center Administrative Department where the Procurement Officers work; the Chief Administrative Officer is authorised to sign contracts for and on behalf of the Center;

**“Company”** means a legal person, either a public entity or a private firm, or a joint-stock company, offering to supply goods, perform works or provide services to the Center;

**“Consortium”** means an association of companies or firms established for the purpose of submitting one common tender;

**“Contract”** means an agreement between the Center and one or more contractors for the supply of goods, performance of works, or provision of services, in consideration of pecuniary remuneration, subject to general and special terms and conditions;

**“Contractor”** means a company or an individual party to a contract with the Center;

**“Executive Director”** means the person responsible for implementing the decisions of the Governing Board and the Center's budget as authorising officer as set out in the Statute of the Center;

**“Financial Regulations”** means the Center's Financial Regulations adopted by the Governing Board;

**“Governing Board”** means the body responsible for the supervision of the Center in the pursuit of its objectives as set out in the Agreement to Establish the STCU and the Statute of the STCU;

**“Individual”** means a natural person offering to supply goods, perform works or provide services to the Center;

**“Open Tender”** means a tender openly advertised at the Center's web site and/or in the press; in addition to the advertisement, the Center may send invitations to tender directly to candidates; open tender may be international and/or national;

**“Qualified Supplier”** means a company or an individual who has applied for qualification and has been subsequently included in a list of those to be invited to submit a price quotation or a tender;

**“Potential Tenderer”** means a company or an individual who has been put on a list of potential contractors/suppliers or has been invited to submit a tender, or who have acquired tender documents issued by the Center;

**“Procurement Officer”** means a member of the Center staff authorised to do procurement for all contracts for goods, works or services financed in whole from the Center's funds; the Procurement Officer is reportable to the Chief Administrative Officer;

**“Project Manager”** means the person responsible for implementing of a Center-financed project;

**“Restricted Tender”** means a tender when the Center requests candidates to submit their tenders by sending an invitation to tender directly to them; the Center is not required to openly advertise a selective tender at the Center’s web site and/or in the press; selective tender may be international and/or national;

**“Tender”** means an offer submitted in response to an invitation to tender issued by the Center;

**“Tenderer”** means a company or an individual who have submitted a tender in response to an invitation to tender issued by the Center.

## 2 Scope

- 2.1 The procedures outlined in these Rules shall apply to all contracts for goods, works and services financed in whole from the Center’s funds. These Rules shall govern the awarding of contracts by the Center for goods, services and works necessary for the implementation of the Center’s tasks.
- 2.2 Contracts shall be procured following open tendering if their value is estimated to equal or exceed US\$100,000 for goods, services and works. For goods, works and services contracts below these threshold values, the Center may use other methods of procurement that are consistent with principles concerning competition, transparency, economy and efficiency.
- 2.3 The Executive Director shall, in collaboration with the Governing Board when required, ensure that goods, services and works are procured in accordance with the principles laid down in these Rules.

## 3 Types of Contracts, Contracts with Lots

- 3.1 The contracts may be of the following types
  - (a) supply contract: covering the purchase, leasing, rent or hire purchase, with or without option to buy, of goods. A contract involving installation and maintenance of the goods supplied and training of the personnel shall be considered a supply contract;
  - (b) works contract: covering the design and/or performance of works whereof final result are decoration, civil works, engineering networks, infrastructure, or other facilities;
  - (c) services contract: covering all intellectual and non-intellectual services other than those covered by supply and works contracts. A contract involving delivery of products and provision of services, such as software supply and installation contract, shall be considered a services contract where the value of the services in question exceeds that of the products. A contract designed as a primarily services contract but involving incidental works shall be considered a services contract.
- 3.2 The tender documents shall clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate thereto. The most common types of contracts provide for payments on the basis of a lump sum, unit prices, reimbursable cost plus fees, or combinations thereof.
- 3.3 Whenever appropriate, technically feasible and cost efficient, contracts shall be awarded at the same time in the form of separate lots. Where a contract is to be awarded in the form of separate lots, tenders shall be evaluated separately for each lot. The Center may also ask tenderers to

quote a discount for more than one or for all lots. In which case the Center shall consider evaluation of lots with and without discount to ascertain the best value for money solution. If several lots are awarded to the same tenderer, a single contract covering those lots may be made.

## 4 Estimating the Value of Contracts

- 4.1 For the purposes of estimating the value of a contract, the Center shall calculate the contractor's total estimated remuneration.
- 4.2 Where a contract provides for options or possible renewal, the basis for calculation shall be the maximum possible amount, including the use of option clauses and renewal.
- 4.3 For services contracts, account shall be taken of:
- (a) in the case of insurance services, the premium payable and other forms of remuneration;
  - (b) in the case of banking or financial services, the fees, commissions, interest and other types of remuneration;
  - (c) in the case of design contracts, the fees, and commissions payable and other forms of remuneration.
- 4.4 In the case of services contracts which do not specify a total price or of supply contracts for leasing, rent and hire of goods, the value to be taken as the basis for calculating the estimated value shall be:
- (a) in the case of fixed-term contracts:
    - (i) where their term is forty-eight months or less in the case of services or twelve months or less in the case of goods, the total contract value for their duration;
    - (ii) where their term is more than twelve months in the case of goods, the total value including the estimated residual value;
  - (b) in the case of contracts for an indefinite period or, in the case of services, for a period exceeding forty-eight months, the monthly value multiplied by forty-eight.
- 4.5 In the case of supply or services contracts which are awarded regularly or are to be renewed every twelve months, the contract value shall be established on the basis of:
- (a) either the actual aggregate cost of similar contracts for the same categories of goods or services awarded over the previous fiscal year or twelve months, adjusted, where possible, for anticipated changes in quantity or value over the twelve months following the initial contract; or
  - (b) the estimated aggregate cost of successive contracts during the twelve months following the first service performed or first delivery or during the term of the contract, where this is greater than twelve months.

## 5 Threshold Values

- 5.1 The type of procedure to be used for the awarding of a contract shall be determined in accordance with the following threshold values:
- (a) a contract, whereof value is estimated to equal or exceed US\$ 100,000 for goods and services and works, shall be procured following open tendering; Contracts shall be awarded based on an **Open Tender** after all interested candidates are given adequate notification (i.e. advertisements in local and international newspapers) and an equal opportunity to submit proposals.
  - (b) a contract, whereof value is estimated to fall with a range of US\$ 25,000 to 100,000 for goods, services and works, shall be procured following a **Restricted Tender** with inviting at least three potential tenderers; At least three written proposals shall be obtained from a selected list of vendors prepared by the Administrative Department under a standardized formal procedure.
  - (c) a contract, whereof value is estimated to fall with a range of US\$ 10,000 to 25,000 for goods, services and works; shall be procured following **Direct Placement**. Two or more informal written quotations shall be obtained for analysis and determination of price reasonableness. The Chief Administrative Officer may negotiate directly with the vendor.
  - (d) a contract, whereof value is estimated to fall below US\$ 10,000 for goods, services and works, using **Direct Contracting**, may be awarded directly to a selected candidate without conducting a competitive tender or formal price comparisons are not required, but the reasonableness of the price must be considered in selecting the vendor.

## 6 Eligibility

- 6.1 Participation in the Center's procurement operations shall be open on equal terms to companies, firms, individuals and public entities from all countries. Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfil the contract in question.
- 6.2 In connection with any contract to be financed in whole from the Center's funds, no company or individual can be denied pre- or post-qualification for reasons unrelated to its capability and resources to successfully perform the contract; no tenderer can be disqualified for such reasons. Consequently, the Procurement Officer should carry out due diligence on the technical and financial qualifications of tenderers to be assured of their capabilities in relation to the specific contract.
- 6.3 A tenderer shall not be eligible to participate in the Center's procurement operations if:
- (a) it is bankrupt or being wound up, has its affairs administered by courts, has entered into an arrangement with creditors, has suspended businesses, is subject to proceedings concerning the above-said matters; or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
  - (b) it has been convicted of an offence concerning its professional conduct by a judgment which has the force of res judicata.



- 6.4 No contract shall be awarded to a tenderer who, during the Center's procurement operations, has been subject to a conflict of interest or has misinterpreted any data or information required by and supplied to the Center.
- 6.5 Furthermore, a company or individual declared ineligible by the Center for being involved in corrupt, fraudulent, collusive, coercive or obstructive practices shall be ineligible to be awarded a Center-financed contract during the period of time determined by the Center.
- 6.6 The Procurement Officer shall ensure that companies and individuals may apply for qualification as candidates at any time; and that all qualified suppliers so requesting are included in the lists within a reasonably short time.
- 6.7 When determining the qualification of a potential tenderer or supplier, the Procurement Officer is recommended to use SMART factors as follows:
- (a) commercial factors:
    - (i) principal services provided in the past three years;
    - (ii) accuracy and timely manner of submitting payment and deliverable documents;
    - (iii) turnover in the past three years;
  - (b) technical factors:
    - (i) quality of the goods, works or services;
    - (ii) timely manner of supplying the goods, performing the works or providing the services;
    - (iii) quality of the after-sale services;
    - (iv) professional experience, education and qualifications of the staff responsible for performing the works or providing the services;
  - (c) integrity factors:
    - (i) the supplier's flexibility and willingness to customize products where required;
    - (ii) feedback on the supplier's previous work.

## 7 Consortia and Joint Ventures

- 7.1 Any company, firm or individual may tender independently or in consortium or joint venture confirming joint and several liability, either with domestic companies and firms and/or with foreign companies and firms.

## 8 Language

- 8.1 All tender documents and related correspondence shall be in English, unless otherwise specified in the invitation to tender. The Ukrainian language may be used for procurement actions with local suppliers and contractors.

## 9 Currency

- 9.1 All prices shall be requested in United States dollars, Euros or Ukrainian Hryvnias as the conditions deem practicable for each tender and the potential contractors.

## 10 Fraud and Corruption

- 10.1 It is the Center's policy to require that its staff, as well as tenderers, suppliers, and contractors and their subcontractors under Center-financed contracts, observe the highest standard of ethics during the procurement and performance of such contracts. In pursuance of this policy, the Center:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (ii) "fraudulent practice" is 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;
  - (iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - (iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - (v) "obstructive practice" is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation;
- (b) will reject a tender if it determines that the tenderer in question has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
- (c) will cancel a contract if it determines at any time that its staff has been engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the performance of that contract;

- (d) will sanction a company, firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a Center-financed contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in performing, a Center-financed contract.

## OPEN TENDERING

### 11 Open Tender

- 11.1 The objective of the open tender is to provide all eligible potential tenderers with timely and adequate notification of the Center's requirements and an equal opportunity to tender for the required goods, works or services.

### 12 Invitation to Tender

- 12.1 The open tendering starts with the advertisement of an invitation to tender at the Center's web site and/or in the press. Such an invitation to tender shall set out the Center's needs, qualification requirements, deadline for submission of tenders, where and how the tender documents can be acquired.
- 12.2 In addition to the advertisement, the Procurement Officer may send invitations to tender directly to companies and individuals that are considered suitable even if they did not respond to the advertisement.

### 13 Tender Documents

- 13.1 The tender documents shall furnish all information necessary for a potential tenderer to prepare a tender for the goods, works or services to be procured. While the detail and complexity of these documents may vary with the size and nature of the proposed tender package and contract, they generally include: invitation to tender; instructions to tenderers; tender form; contract form; terms of reference, technical requirements, specifications and drawings; expected delivery time or performance schedule; security formats where necessary. The method and technique for evolution of tenders shall be clearly outlined in the instructions to tenderers and/or the specifications.
- 13.2 The Procurement Officer may use an electronic system to distribute tender documents. If tender documents are distributed electronically, the electronic system shall be secure to avoid modifications to the tender documents and shall not restrict the access of tenderers to the tender documents. Guidance on critical components of the tender documents are given in the following paragraphs.
- 13.3 The instructions to tenderers shall:
  - (a) specify the rules governing the submission and presentation of tenders, including in particular the deadline for submission, any requirement as to the use of a standard tender form, the documents to be attached to the tender, and the address to which they must be sent;

- (b) state that submission of a tender implies acceptance by the tenderer of the terms and conditions of the tender and contract and that this submission binds the tenderer to sign and perform the contract if awarded;
- (c) specify the period during which the submitted tender must remain valid and may not be varied in any respect;
- (d) forbid any contact between the Center and the tenderer during the procedure, unless such contact is in writing and for the purpose of clarification of the tender documents and tenders;
- (e) state that, in the case of a tender submitted by a consortium or joint venture, the tender shall specify the internal organization of the consortium or joint venture, the names and the percentage shares allocated to each party to the same. In the case of a tender involving subcontractors, the tender shall specify the name of the proposed subcontractors, the nature of the subcontracting, the addresses of the premises where the subcontracted or sub-subcontracted obligations will be performed, and/or information on the financial, economic, technical and professional capacities of any proposed subcontractor;
- (f) specify the evaluation technique and award criteria.

13.4 The terms of reference, technical requirements or specifications shall in particular:

- (a) set out the technical or functional and management specification detailing the characteristics of the required goods, works and services, including detailed drawings, as appropriate;
- (b) state limits to variants from the technical requirements under which the Contract is awarded to the tenderer offering best value for money, where the Center has stated in the contract notice that such variants are permitted.

13.5 The contract form shall in particular:

- (a) include the subject-matter of the contract, performance schedule, technical requirements;
- (b) specify contract price, currency and schedule of payments;
- (c) provide for penalties for failure to comply with the terms and conditions of the contract;
- (d) indicate the applicable law, the governing language, the place and procedures for the settlement of disputes;
- (e) where a contract makes commitments against the Center's funds in future years, stipulate a provision allowing the Center to terminate the contract if the necessary funds in those future years are not made available.

## 14 Performance Security

14.1 Tender documents for works, where the cost of works exceeds US\$ 600,000, shall require security in an amount sufficient to protect the Center in case of breach of contract by the contractor. This security shall be provided in an appropriate form and amount, as specified by

the Center in the tender document. The amount of the security may vary, depending on the type of security furnished and on the nature and magnitude of the works, but shall not exceed 20 per cent of the contract price. A portion of this security shall extend sufficiently beyond the date of completion of the works to cover the defects liability or maintenance period up to final acceptance by the Center; alternatively, contracts may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security after provisional acceptance.

- 14.2 In supply contracts, where the contract price exceeds US\$ 300,000, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. Suppliers or manufacturers may be required to provide a guarantee to protect against non-performance of the contract. Such security in an appropriate amount may also cover warranty obligations or, alternatively, a percentage of the payments may be held as retention money to cover warranty obligations, and any installation or commissioning requirements. The amount of such security or retention money shall not exceed 10 per cent of the contract price.

## 15 Payment security

- 15.1 In contracts, where any prepayment exceeds US\$ 30,000, the need for security of the prepayment depends on the market conditions and commercial practice for the particular kind of goods, works or services and the Center's assessment of the risk and previous experience with the supplier. Suppliers or manufacturers should be required to provide a guarantee to protect against non-performance of the contract.
- 15.2 For works contracts the Center shall if deemed appropriate retain, a percentage of the interim and final payments to cover warranty obligations, and any installation or commissioning requirements and the rectification of defects. Such a retention should not exceed 10% of the payments due or be retained for a period of more than on year.

## 16 Time for Preparation of Tenders

- 16.1 The time allowed for the preparation and submission of tenders shall be determined with due consideration of the particular circumstances of the procurement requirement and the magnitude and complexity of the contract. Generally, not less than four weeks from the date of the invitation to tender or the date of availability of tender documents, whichever is later, shall be allowed for open tender. Where large works or complex items of equipment are involved, this period shall generally be not less than eight weeks to enable prospective tenderers to conduct investigations before submitting their tenders. In such cases, the Center may convene pre-tender conferences and arrange site visits.

## 17 Submission of Tenders

- 17.1 Tenderers shall be permitted to submit tenders by mail or by hand. The Center may also use electronic systems permitting tenderers to submit tenders by electronic means, provided the system is secure, maintains the confidentiality and authenticity of tenders submitted, uses an electronic signature system or equivalent to keep tenderers bound to their tenders, and only allows tenders to be opened with due simultaneous electronic authorization of the tenderer and the Center. The Center should make use of electronic means whenever possible to improve the efficiency of the tender process.

17.2 In order to maintain secrecy and to avoid any difficulties where tenders are submitted by mail or by hand, the instructions to tenderers must advise every tenderer to submit the tender in two sealed envelopes enclosed in an outer sealed envelope. The inner envelopes must bear, in addition to the tenderer's name and address and the name and address of the Procurement Officer, the words "ITT No. ... Do not open before ...". The outer envelope shall have the tenderer's name and address and the name and address of Center.

17.3 The two inner envelopes should contain the tenderer's technical offer and the tenderer's financial offer respectively. The technical offer should contain no reference to the financial offer or any other price information. The two envelopes should be clearly marked "Technical offer" and "Financial offer".

17.4 Submission of tenders by electronic means

Tenders for the procurement of goods, services and works can be submitted to STCU by electronic means if this is included in the Instructions to Tenderers for a specific tender.

(a) Electronic tenders should be prepared as follows:

- i. Tenders should be prepared containing all the documents required by the Instructions to Tenderers and as if it was to be submitted as a physical document.
- ii. Tenders should be signed and scanned copies of the signed documents included in the package to be submitted electronically.
- iii. Technical Proposals and Financial Proposals should be collected together as either two single files or two packages of files to be included in two folders or zip files.
- iv. The files or the zipped packages of files should be password protected with separate passwords for the Technical Proposal and Financial Proposal.

(b) Submission of documents:

- i. Tender files or zipped packages should be sent by electronic mail to the following address [tenders@stcu.int](mailto:tenders@stcu.int) before the deadline specified in the Instructions to Tenderers date and time being Kyiv time. Time as recorded by STCU's email system will be taken as time of delivery.
- ii. The e-mail should include the tender number of the tender in the subject line, the e-mail should contain the name and contact details of the person responsible for the tender who can provide the password.

(c) Acceptance and opening of tender

- i. After the date and time of the deadline the e-mail box will be checked for tenders received.
- ii. All tenderers who have submitted an electronic tender will receive a notification from the [tenders@stcu.int](mailto:tenders@stcu.int) address confirming receipt of the tender and requesting the password.

- iii. When the tenders are opened by the tender evaluation committee electronically submitted tenders are opened at the same time as physical tenders. Files will be downloaded and opened using the password provided in (ii) above.
- iv. After the technical evaluation a further e-mail will be sent from the [tenders@stcu.int](mailto:tenders@stcu.int) address requesting the password for the financial proposal.
- v. Financial proposals shall be opened in the same way as Technical Proposals in 3 above.

(d) Other issues

Gmail allows attached files up to **25 MB** in size, where the size is determined by the size of the file on disk. If a file larger than **25 MB** in size, is attached it gets uploaded to Google Drive and Gmail places a download link to the file in the body of the e-mail message.

## 18 Opening of Tenders

- 18.1 After the deadline for submission of tenders has expired, tenders shall be opened by the Procurement Officer and the Chief Administrative Officer. Where possible the Project Manager or member of the Center's staff involved with the project may also be present at the opening. The date for the tender opening shall be the same as for the deadline for receipt of tenders or promptly thereafter.
- 18.2 The name of the tenderer shall be recorded and the evaluation grids prepared.
- 18.3 Where tenders are submitted by mail or by hand, the Procurement Officer shall ensure that the tenders to be opened have been submitted before the deadline for submission of tenders. Tenders submitted electronically will be automatically recorded as to date and time and the means of submission closed at the deadline. All tenders submitted after the deadline shall not be considered and shall be returned to the respective tenderers unopened.

## 19 Examination of Tenders

- 19.1 The Procurement Officer shall ascertain whether the tenders (a) meet the eligibility requirements, (b) have been properly signed, (c) are substantially responsive to the tender documents, and (d) are otherwise generally in order.
- 19.2 If a tender is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions, technical requirements, and specifications in the tender documents, it shall not be considered further. The tenderer shall not be permitted to correct or withdraw material deviations or reservations once tenders have been opened.
- 19.3 If no substantially responsive tender is received or prices of those received materially exceed the available budget, the Procurement Officer may recommend the Project Manager or the Chief Administrative Officer re-tender following appropriate modifications of the terms, conditions, technical requirements, and specifications of the tender documents.

## 20 Clarifications or Alterations of Tenders

- 20.1 Tenderers shall not be requested or permitted to alter their tenders after the deadline for submission of tenders. The Center shall ask tenderers for clarification needed to evaluate their tenders but shall not ask or permit tenderers to change the substance or price of their tenders after the tender opening. Requests for clarification and the tenderers' responses shall be made in writing, in hard copy or by an electronic system.

## 21 Confidentiality

- 21.1 After the opening of tenders, information relating to the examination, clarification, and evaluation of tenders and recommendations concerning awards shall not be disclosed to tenderers or other persons not officially concerned with this process until the publication of contract award.

## 22 Evaluation of Tenders

- 22.1 The purpose of tender evaluation is to determine the cost of each tender in a manner that permits a comparison on the basis of their evaluated cost. Two methods are available best value for money and lowest price. The Procurement Officer will select the most appropriate method for the tender when preparing the tender documents.

(a) **Best value for money:** The tender with the lowest evaluated cost, but not necessarily the lowest submitted price, shall be selected for award.

(b) **Lowest price:** The tender with lowest submitted price, which meets the requirements of the technical specifications, shall be selected for award.

- 22.2 The tenders and the evaluation grids are distributed to the assessors. Where possible the Procurement Officer should make use of technology and distributed the documents electronically to ensure the evaluation is performed as efficiently as possible. There should be a minimum of two assessors who shall be staff members of the Center and/or participants of a Center-financed project. The assessors should be fluent in the language of the tender procedure and should possess sufficient technical knowledge of the subject to be able to make an informed assessment of the technical merits of the tenders.

- 22.3 Each assessor should form his own independent objective assessment of the technical merits of each tender for each of the predetermined evaluation criteria provided. These assessments should be entered into the evaluation grids for each criteria without adjustment for weighting. The predetermined weightings will be already included in the evaluation grids and will be calculated automatically.

## 23 Comparison of Tenders

- 23.1 On receipt by the Procurement Officer of all the completed evaluation grids from the assessors, he shall prepare the combined assessment of the evaluation grids.



- 23.2 The Financial offers shall be opened by the Procurement Officer and the Chief Administrative Officer. Where possible the Project Manager or member of the Center's staff involved with the project may also be present at the opening. The tender price shall be adjusted to correct any arithmetical errors. Also, for the purpose of evaluation, adjustments shall be made for any quantifiable nonmaterial deviations or reservations. Price adjustment provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation.
- 23.3 The Procurement Officer shall use the overall evaluation grid to determine either the lowest evaluated cost or the lowest priced tender meeting the requirements of the technical specifications.
- 23.4 The tender documents shall specify the relevant factors in addition to price to be considered in tender evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated tender. For goods and equipment, other factors may be taken into consideration including, among others, payment schedule, delivery time, operating costs, efficiency and compatibility of the equipment, availability of after-the-sale service and spare parts, and related training, safety, and environmental benefits. The factors other than price to be used for determining the lowest evaluated tender shall, to the extent practicable, be expressed in monetary terms, or given a relative weight in the evaluation provisions in the tender documents.
- 23.5 Under works contracts, contractors are responsible for all duties, taxes, and other levies, and tenderers shall take these factors into account in preparing their tenders. The evaluation and comparison of tenders shall be on this basis. If time is a critical factor, the value of early completion may be taken into account according to criteria presented in the tender documents, only if the conditions of contract provide for commensurate penalties for non-compliance.
- 23.6 The Procurement Officer shall prepare a report on the opening, examination, evaluation and comparison of tenders setting forth the specific reasons on which the recommendation is based for the award of the contract. The evaluation report shall in particular specify:
- (a) the subject-matter of procurement requirement, date of invitation to tender, deadline for submission of tenders, date of evaluation report;
  - (b) a list of potential tenderers invited directly if any, tenderers who have submitted their tenders, and tenderers whose tenders have been determined to be substantially responsive;
  - (c) ranking of the tenders evaluated according to the award criteria provided for in the tender documents, their scores and the comments where appropriate;
  - (d) contractor(s) recommended for the award;
  - (d) reasons why the Center has chosen not to recommend the award of the contract where appropriate;
  - (f) signatures of the evaluation committee members.

## 24 Award of Contract

- 24.1 The Center shall award the contract, within the period of the validity of tenders, to the tenderer

who meets the appropriate standards of capability and resources and whose tender has been determined (i) to be substantially responsive to the tender documents and (ii) to offer the lowest evaluated cost. A tenderer shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the tender documents or otherwise to modify the tender as originally submitted.

- 24.2 All contracts shall be awarded following recommendations of the Procurement Officer by the authorities as follows:
- (a) a contract, whereof value is estimated to equal or exceed US\$ 100,000 for goods, services and works, the Executive Director;
  - (b) a contract, whereof value is estimated to fall with a range of US\$ 100,000 to 10,000 for goods, services and works, the Chief Administrative Officer;
  - (c) a contract, if deemed necessary, whereof value is estimated to fall below US\$ 10,000 for goods, services and works, the Procurement Officer or the Project Manager as the case may be.

## 25 Notice of the Award of Contract

- 25.1 The Center shall in writing notify the successful tenderer of the award of the contract and request the tenderer to sign the contract the form of which has been included in the tender documents.
- 25.2 As soon as the contract is signed, the Center shall in writing inform unsuccessful tenderers of decisions made concerning the award of the contract stating the successful tenderer's name and the contract price, as well as publish a relevant notice of the award of the contract at the Center's web site, if the tender was published on the website.

## 26 Rejection of All Tenders

- 26.1 Tender documents usually provide that the Center may reject all tenders. Rejection of all tenders is justified when there is lack of effective competition, or tenders are not substantially responsive or when tender prices are substantially higher than existing budget. Lack of competition shall not be determined solely on the basis of the number of tenderers. Even when only one tender is submitted, the tendering may be considered valid, if the tender was satisfactorily advertised and prices are reasonable in comparison to market values. If all tenders are rejected, the Procurement Officer shall review the causes justifying the rejection and consider making revisions to the terms and conditions of the contract, terms of reference, technical requirements, specifications, scope of the contract, or a combination of these, before inviting new tenders.
- 26.2 If the rejection is due to most or all of the tenders being non-responsive, new tenders may be invited from the initially pre-qualified firms, or from only those that submitted tenders in the first instance.
- 26.3 All tenders shall not be rejected and new tenders invited on the same tender and contract documents solely for the purpose of obtaining lower prices. If the lowest evaluated responsive tender exceeds the Center's pre-tender cost estimates by a substantial margin, the Center shall

investigate causes for the excessive cost and consider requesting new tenders as described in the previous paragraphs. Alternatively, the Center may negotiate with the lowest evaluated tender to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility which can be reflected in a reduction of the contract price. However, substantial reduction in the scope or modification to the contract documents may require retendering.

## 27 Debriefing

- 27.1 In the publication of contract award the Center shall specify that any tenderer who wishes to ascertain the grounds on which its tender was not selected, should request an explanation from the Center. The Center shall promptly provide an explanation of why such tender was not selected, either in writing and/or in a debriefing meeting, at the option of the Center. The requesting tenderer shall bear all the costs of attending such a debriefing.

## OTHER METHODS OF PROCUREMENT

### 28. Restricted Tendering

- 28.1 A Restricted Tender is a procurement method based on comparing price quotations obtained from several suppliers (in the case of goods) or from several contractors (in the case of works or services), with a minimum of three, to assure competitive prices. Selective tendering is tendering by direct invitation without open advertisement.
- 28.2 Restricted Tender may involve the preparation of tender documents that shall furnish all information necessary for a potential tenderer to prepare a tender for the goods, works or services to be procured. For reasons of efficiency the procurement officer should make use of technology and distribute and receive documents electronically whenever possible. While the detail and complexity of these documents for selective tendering may vary, they shall include instructions to tenderers; terms of reference, technical requirements, specifications and drawings; expected delivery time or performance schedule; tender form; and contract form where necessary. The method and technique for comparison of price quotations shall be clearly outlined in the instructions to suppliers/contractors and/or the specifications.
- 28.3 The evaluation of a Restricted Tender should follow the procedures for an Open Tender as considered appropriate.

### 29. Direct Placement

- 29.1 Direct Placement is a procurement method based on comparing price quotations obtained from several suppliers (in the case of goods) or from several contractors (in the case of works or services), with a minimum of three, to assure competitive prices. Direct Placement is tendering by direct invitation without open advertisement.
- 29.2 Direct Placement involves the preparation of modified tender documents that shall furnish all information necessary for a potential tenderer to prepare a quotation for the goods, works or services to be procured. For reasons of efficiency the procurement officer should make use of technology and distribute and receive documents electronically whenever possible. While the detail and complexity of these documents for Direct Placement will vary, they shall ensure that

all tenderers are provided with the same information. The method and technique for comparison of price quotations shall be clearly outlined in the instructions to suppliers/contractors and/or the specifications.

- 29.3 An evaluation should be made to compare price quotations or evaluate tenders. Such an evaluation by the Procurement Officer and other members of Center staff, and the Project Manager or other participants of a Center-financed project shall be carried out using the principles outlined for an Open Tender and as considered appropriate.

## 30. Direct Contracting

- 30.1 Direct contracting is a procurement method that involves contracting without competition (single source). This method is normally used for a contract, whereof value is estimated to fall below US\$ 10,000 for goods, services and works. Though, the Executive Director may approve the use of direct contracting in the case that a contract value is estimated to exceed the above-said threshold values, where:

- (a) no tenders, or no substantially responsive tenders, or price quotations have been submitted in response to an invitation to tender or request for price quotations;
- (b) for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular company, firm or individual;
- (c) prices or rates are fixed pursuant to legislation or by other regulatory bodies;
- (d) for reasons of extreme urgency brought about by unforeseeable events not attributable to the Center, it is impossible to comply with the time limits set for tendering;
- (e) additional goods, works and services are to be procured that were not initially included in the project or in the initial contract but which, through unforeseeable circumstances, have become necessary for the performance of the project or contract;
- (f) new works or services are to be procured that are the repetition of similar works or services entrusted to a company or a firm awarded the initial contract provided that these goods, works or services conform to the initial project and that this initial contract was awarded following an open or restricted tendering;
- (g) goods, works or services are to be procured for use within a Partner Project and the Partner has expressed written preference for a particular supplier to be used;
- (h) standardization with existing equipment is determined to be important and justified, the number of new items is less than the existing number and compatible goods cannot be provided by other suppliers;
- (ih) commodities, such as grain, animal feed, cooking oil, fuel, fertilizer, and metals, are to be procured;
- (j) contracts to be awarded are declared to be secret by the Center or by the Center Parties; or the performance of contracts must be accompanied by special security measures, in

accordance with the administrative provisions in force or when the protection of the essential interests of the Center and the Center Parties; or

(k) it is an exceptional case, such as response to natural disasters.

30.2 In the case of one of the scenarios (a) to (k) above a sole source justification should be prepared outlining why Direct contracting is considered appropriate and signed by the Deputy Executive Director or Chief Officer responsible and submitted for approval by the Executive Director.

30.3 In these cases the Center may invite a single company or a firm to present its tender by direct invitation without public notice or the Center may purchase based on invoice. However, the reasonableness of the price must be considered in selecting the vendor.

## GUIDANCE TO TENDERERS

### 31 Information on tender opportunities

31.1 Information on tender opportunities under open tendering, general guidance on participation, as well as advance information on business opportunities in upcoming projects, may be obtained from the Center's website.

### 32 Tenderer's Role

32.1 Once a tenderer receives tender documents or a supplier/contractor a request for price quotations, the tenderer should study the documents carefully to decide if it can meet the technical, commercial, and contractual conditions, and if so, proceed to prepare its tender. The tenderer should then critically review the documents to see if there is any ambiguity, omission, or internal contradiction, or any feature of specifications or other conditions which are unclear or appear discriminatory or restrictive; if so, it should seek clarification from the Center, in writing, within the time period specified in the tender documents for seeking clarifications.

32.2 The criteria and methodology for selection of the successful tenderer are outlined in the tender documents, generally under instructions to tenderers and specifications. If these are not clear, clarification should be similarly sought from the Center.

32.3 In this connection it should be emphasized that the specific tender documents issued by the Center govern each procurement requirement. If a tenderer feels that any of the provisions in the documents are inconsistent with these Procurement Rules, it should also raise this with the Center.

32.4 It is the responsibility of the potential tenderer to raise any issue of ambiguity, contradiction, omission, etc., prior to the submission of its tender, to assure submission of a fully responsive and compliant tender, including all the supporting documents requested in the tender documents. Non-compliance with critical (technical and commercial) requirements will result in rejection of the tender. If a tenderer wishes to propose deviations to a non-critical requirement, or propose an alternative solution, the tenderer shall quote the price for the fully compliant tender and then separately indicate the adjustment in price that can be offered if the deviation is accepted.

Alternative solutions should be offered only when authorized in the tender documents. Once tenders are received and publicly opened, tenderers will not be required or permitted to change the price or substance of a tender.

- 32.5 The process of tender evaluation shall be confidential until the publication of contract award. This is essential to enable the Center to avoid either the reality or perception of improper interference. If at this stage a tenderer wishes to bring additional information to the notice of the Center, it should do so in writing.