

Name of STD :	e-PW3
Procurement Type :	Works
Section :	Instructions to Tenderer

A. General

1. Scope of Tender	1.1 The Procuring Entity named in the Tender Data Sheet (TDS) (hereinafter referred to as the "PE") wishes to issues these e- Tender Document (hereinafter referred to as the "e-TD") for the procurement of Works and physical services as specified in the TDS and as detailed in section 6: Bill of Quantities. The name of the Tender and the number and identification of its constituent lot(s) are stated in the TDS.
	1.2 The successful Tenderer shall be required to execute the works and physical services as specified in the General Conditions of Contract.
2. Interpretation	<p>2.1 Throughout this e-TD:</p> <p>(a) "communication" means communication through e-GP System;</p> <p>(b) "e-GP" means procurement by a PE using the electronic government procurement system developed by the Government of Bangladesh;</p> <p>(c) "day" means calendar days unless otherwise specified as working days;</p> <p>(d) "date and time" means the date and time of e-GP System (www.eprocure.gov.bd) hosted in Central Procurement Technical Unit (CPTU), Implementation Monitoring and Evaluation Division (IMED), Dhaka, Bangladesh;</p> <p>(e) "e-TD" means the Document provided by a PE to a Tenderer as a basis for preparation of its e-Tender through the e-GP System;</p> <p>(f) "Person" means and includes an individual, body of individuals, sole proprietorship, partnership, company, association or cooperative society registered with e-GP system and wishes to participate in e-Procurement proceedings;</p> <p>(g) "e-Tender", depending on the context, means a Tender submitted through e-GP System by a Tenderer for execution of Works and physical services to a PE in response to an Invitation for e-Tender;</p> <p>(h) "Tenderer" means a Person who submits an e-Tender;</p> <p>(i) if the context so requires, singular means plural and vice versa;</p> <p>(j) "e-Signature" means a signature in electronic form attached to or logically associated with an electronic record, in the form of electronic symbol or a process attached to or logically associated with documents, and executed, adopted or agreed upon by a person with the intent to sign the documents;</p>
3. Source of Funds	3.1 PE has been allocated public funds as indicated in the TDS and intends to apply a portion of the funds to eligible payments under the Contract for which this e-TD is issued.
	3.2 For the purpose of this provision, "public funds" means any monetary resources appropriated to Procuring Entities under Government budget, or loan, grants and credits placed at the disposal of Procuring Entities through the Government by the development partners or foreign states or organisations.
	3.3 Payments by the Development Partner, if so indicated in the TDS, will be made only at the request of the Government and upon approval by the Development Partner or foreign state or Organisation in accordance with the applicable Loan / Credit / Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.
4. Corrupt, Fraudulent, Collusive, Coercive or obstructive Practices	4.1 The Government and the Development Partner require that PE, as well as Tenderers and Contractors (including their suppliers, sub-contractors, agents, personnel, consultants, and service providers) shall observe the highest standard of ethics during implementation of procurement proceedings and the execution of Contracts under public funds.
	<p>4.2 For the purposes of ITT Sub Clause 4.3, the terms set forth below as follows:</p> <p>(a) "corrupt practice" means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a PE or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a PE in connection with a Procurement proceeding or Contract execution;</p> <p>(b) "fraudulent practice" means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;</p> <p>(c) "collusive practice" means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the PE, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a PE the benefits of competitive price arising from genuine and open competition; or</p> <p>(d) "coercive practice" means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of a Contract; or</p> <p>(e) "obstructive practice" means 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.</p>
	4.3 Should any corrupt, fraudulent, collusive, coercive or obstructive practice of any kind is determined by the PE or the Development Partner, this will be dealt with in accordance with the provisions of the Procurement Guidelines of the Development Partner as stated in the ITT sub-clause 3.3 in combination with ITT sub-clause 4.4 and the Procurement Laws.
	4.4 If corrupt, fraudulent, collusive, coercive or obstructive practices of any kind is determined against any Tenderer or Contractor (including its suppliers, sub-contractors, agents, personnel, consultants, and service providers) in competing for, or in executing, a contract under public fund

	<p>(a) PE and/or the Development Partner shall exclude the concerned Tenderer from further participation in the concerned procurement proceedings;</p> <p>(b) PE and/or the Development Partner shall reject any recommendation for award that had been proposed for that concerned Tenderer;</p> <p>(c) PE and/or the Development Partner shall declare, at its discretion, the concerned Tenderer to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time;</p> <p>(d) Development Partner shall sanction the concerned Tenderer or individual, at any time, in accordance with prevailing Development Partner's sanctions procedures, including by publicly declaring such Tenderer or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Development Partner-financed contract; and (ii) to be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Development Partner-financed contract; and</p> <p>(e) Development Partner shall cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the PE or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during the procurement or the execution of that Development Partner financed contract, without the PE having taken timely and appropriate action satisfactory to the Development Partner to remedy the situation</p>
	4.5 Tenderer shall be aware of the provisions on corruption, fraudulence, collusion, coercion and obstruction in of the Public Procurement Act, 2006, the Public Procurement Rules, 2008 and others as stated in GCC Clause 39 and 89.1(b)(vii).
	4.6 In further pursuance of this policy, Tenderers, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers shall permit the Government and the Development Partner to inspect any accounts and records and other documents relating to the tender submission and contract performance, and to have them audited by auditors appointed by the Government and/or the Development Partner
5. Eligible Tenderers	5.1 This Invitation for Tenders is open to all potential Tenderers from all countries, except for any specified in the TDS.
	5.2 Tenderer must be registered in the e-GP system under appropriate user category of procurement process in order to have appropriate access point and to get working dashboard with authorized functions in e-GP System.
	5.3 Tenderer may be a physical or juridical individual or body of individuals, or company, association or any combination of them in the form of a Joint Venture, Consortium or Association (JVCA) invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders.
	5.4 Government-owned enterprises in Bangladesh shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not a dependent agency of the PE.
	5.5 Tenderer shall have the legal capacity to enter into the Contract.
	5.6 Tenderer and all parties constituting the Tenderer shall not have a conflict of interest.
	5.7 Tenderer in its own name or its other names or also in the case of its Persons in different names, shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, coercive and obstructive practices as stated under ITT Sub Clause 4 or in relation to the Development Partner's Guidelines in projects financed by Development Partner.
	5.8 Tenderer are not restrained or barred from participating in public Procurement on grounds of poor performance in the past under any Contract.
	5.9 Tenderer shall not be insolvent, be in receivership, be bankrupt, be in the process of bankruptcy, be not temporarily barred from undertaking business and it shall not be the subject of legal proceedings for any of the foregoing.
	5.10 Tenderer shall have fulfilled its obligations to pay taxes and social security contributions under the provisions of laws and regulations of the country of its origin.
	5.11 Tenderer shall provide such evidence of their continued eligibility satisfactory to the PE, as the PE will reasonably request.
	5.12 These requirements for eligibility will extend, as applicable, to each JVCA partner and Subcontractor proposed by the Tenderer.
6. Eligible Materials, Equipment and Associated Services	6.1 All materials, equipment and associated services to be supplied under the Contract are from eligible sources, unless their origin is from a country specified in the TDS.
	6.2 For the purposes of this Clause, "origin" means the place where the Materials and Equipments are mined, grown, cultivated, produced or manufactured or processed, or through manufacturing, processing, or assembly, another commercially recognized new product results that differs substantially in its basic characteristics from its components.
	6.3 The origin of materials and equipment and associated services is distinct from the nationality of Tenderer.
7. Site Visit	7.1 Tenderer is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at Tenderer's own expense.
8. Disclaimer	8.1 Use of the e-GP System shall only be used for lawful purposes that do not infringe the rights of or restrict or inhibit the use of the system by any third party. Such restriction or inhibition includes, but is not limited to, conduct which is intended to mislead, or is defamatory, or which may harass, cause distress or inconvenience to any person and the transmission of obscene or offensive content or interruption of the normal flow of content within the e-GP System.
B. e-Tender Document (e-TD)	
9. e-Tender Document:	9.1 The Sections comprising the e-TD are listed below, and should be read in conjunction with any Addendum issued under ITT Clause 12.

General	<ul style="list-style-type: none"> • Section 1 Instructions to Tenderers (ITT) • Section 2 Tender Data Sheet (TDS) • Section 3 General Conditions of Contract (GCC) • Section 4 Particular Conditions of Contract (PCC) • Section 5 Tender and Contract Forms • Section 6 Bill of Quantities (BOQ) • Section 7 General Specifications • Section 8 Particular Specifications • Section 9 Drawings
	9.2 Tenderer is expected to examine all instructions, forms, terms, and specifications in the e-TD as well as in addendum to e-TD, if any.
10. Clarification of e-TD	10.1 Clarification request must be posted through e-GP dashboard. Clarification posted by fax / post / e-mail will not be entertained.
	10.2 A prospective Tenderer requiring any clarification of the e-TD shall be allowed to post clarification as stated under ITT Sub Clause 10.1 till the date and time as specified in the TDS, but not later than the date of Pre-Tender meeting as stated under ITT Clause 11, if held.
	10.3 PE shall respond within five (5) working days of receipt of any such request for clarification received under ITT Sub-Clause 10.2.
	10.4 The clarification posted by PE will be shared through e-GP System its response to all those who have purchased the e-TD, including a description of the enquiry but without identifying its source
	10.5 Should the PE deem it necessary to amend the e-TD as a result of a clarification, it shall do so following the procedure under ITT Clause 12.
11. Pre-Tender Meeting	11.1 To clarify issues and to answer questions on any matter arising in the e-TD, the PE may, if stated in the TDS, hold a Pre-Tender Meeting.
	11.2 Pre-Tender Meeting will be held online on the date and time as specified in the TDS. Clarifications to the queries of Tenderer will be made online, and also responses will be shared through dashboard of Tenderers, who have purchased the e-TD.
	11.3 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be uploaded on e-GP System within 5 working days.
	11.4 Any amendment to the e-TD listed in ITT Sub-Clause 9.1 that may become necessary as a result of the pre-Tender meeting shall be made by the PE exclusively through the issue of an Amendment as stated under ITT Clause 12 and not through the minutes of the pre-Tender meeting.
	11.5 Non-participation at the Pre-Tender meeting will not be a cause for disqualification of a Tenderer.
12. Addendum to e-TD	12.1 At any time prior to the deadline for submission of Tenders, the PE on its own initiative or in response to a clarification request posted on e-GP System from a Tenderer, having purchased the e-TD or as a result of a Pre-Tender meeting, may revise the e-TD by issuing an addendum.
	12.2 The addendum corresponding the e-Tender shall be posted in the e-GP System and shall become an integral part of the e-TD. Afterwards amendment notification through e-mail shall be sent to Tenderer who have purchased e-TD.
	12.3 To give a prospective Tenderer reasonable time in which to take an amendment into account in preparing its Tender, the PE may, at its discretion, extend the deadline for the submission of e-Tenders.
	12.4 If an addendum is issued when time remaining is less than one-third of the time allowed for the preparation of e-Tenders, PE shall extend the deadline by an appropriate number of days for the submission of e-Tenders, depending upon the nature of the Procurement requirement and the addendum. The minimum time for such extension shall not be less than three (3) working days.
C. Qualification Criteria	
13. General Criteria	13.1 Tenderer shall possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, specific experience, reputation, and the personnel which entails setting pass/fail criteria, which if not met by Tenderer, will result in rejection of its Tender.
	13.2 In addition to meeting the eligibility criteria, as stated in ITT Clause 5, Tenderer must satisfy the other criteria stated in ITT Clauses 14 to 19 inclusive
	13.3 To qualify for multiple number of contracts/lots in a package made up of this and other individual contracts/lots for which tenders are invited in the Invitation for Tenders, Tenderer shall demonstrate having resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts. The requirement of general experience under ITT Clause 15.1 (a) and specific experience, unless otherwise of different nature, under ITT Clause 15.1(b) shall not be separately applicable for each individual lot
14. Litigation History	14.1 Litigation history shall comply with the requirement as specified in ITT Sub Clause 16.1(c).
15. Experience Criteria	15.1 Tenderer shall have the following minimum level of construction experience to qualify for the performance of the Works under the Contract: (a) a minimum number of years of general experience in the construction of works as Prime Contractor or Subcontractor or Management Contractor as specified in the TDS; and (b) specific experience as a Prime Contractor or Subcontractor or Management Contractor in construction works of a nature, complexity and methods/construction technology similar to the proposed Works in at least a number of contract(s) and of a minimum value over the period, as specified in the TDS.

16. Financial Criteria	<p>16.1 Tenderer shall have the following minimum level of financial capacity to qualify for the performance of the Works under the Contract.</p> <p>(a) the average annual construction turnover as specified in the TDS during the period specified in the TDS;</p> <p>(b) Availability of minimum liquid assets i.e. working capital or credit line(s) from any Scheduled Bank, net of other contractual commitments of the amount as specified in the TDS</p> <p>(c) Satisfactory resolution of all claims, arbitrations or other litigation cases and shall not have serious negative impact on the financial capacity of Tenderer.</p>
	(d) The Minimum Tender Capacity as specified in the TDS.
17. Personnel Capacity	17.1 Tenderer shall have the minimum level of personnel capacity to qualify for the performance of the Works under the Contract consisting of a Construction Project Manager, Engineers, and other key staff with qualifications and experience as specified in the TDS;
18. Equipment Capacity	18.1 Tenderer shall own suitable equipment and other physical facilities or have proven access through contractual arrangement to hire or lease such equipment or facilities for the desired period, where necessary or have assured access through lease, hire, or other such method, of the essential equipment, in full working order, as specified in the TDS.
19. Joint Venture, Consortium or Association (JVCA)	19.1 Tenderer may participate in the procurement proceedings forming a Joint Venture, Consortium or Associations (JVCA) by an agreement, executed case by case on a non judicial stamp of value as stated in TDS or alternately with the intent to enter into such an agreement supported by a Letter of Intent along with the proposed agreement duly signed by all partners of the intended JVCA and authenticated by a Notary Public.
	19.2 The figures for each of the partners of a JVCA shall be added together to determine the Tenderer's compliance with the minimum qualifying criteria; however, for a JVCA to qualify, lead partner and its other partners must meet the criteria stated in the TDS. Failure to comply with these requirements will result in rejection of the JVCA Tender.
	19.3 Each partner of the JVCA shall be jointly and severally liable for the execution of the Contract, all liabilities and ethical and legal obligations in accordance with the Contract terms.
	19.4 The JVCA shall nominate a Representative (partner-in-charge) who shall have the authority to conduct all business for and on behalf of any and all the partners of the JVCA during the tendering process and, in the event the JVCA is awarded the Contract, during contract execution including the receipt of payments for and on behalf of the JVCA.
	19.5 Each partner of the JVCA shall complete the JVCA Partner Information (Form e-PW3-2) for submission with the Tender.
20. Subcontractor(s)	20.1 A Tenderer may intend to subcontract an activity or part of the Works, in which case such elements and the proposed Subcontractor shall be clearly identified.
	20.2 PE may require Tenderers to provide more information about their subcontracting arrangements. If any Subcontractor is found ineligible or unsuitable to carry out the subcontracted tasks, the PE may request the Tenderer to propose an acceptable substitute.
	20.3 PE may also select nominated Subcontractor(s) to execute certain specific components of the Works and if so, those will be specified in the TDS.
	20.4 Subcontractors' as stated under ITT Sub Clause 20.1 experience and resources will not be taken into account in determining the Tenderer's compliance with the qualifying criteria.
	20.5 The successful Tenderer shall under no circumstances assign the Works or any part of it to a Subcontractor.
	20.6 Each Subcontractor shall complete the Subcontractor Information (Form e- PW3-3) for submission with the Tender.
D. Tender Preparation	
21. Only one Tender	21.1 Tenderer shall submit only one (1) Tender for each lot, either individually or as a JVCA.
22. Cost of Tendering	22.1 Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the PE shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
23. Sale of e-TD	23.1 e-TD can be accessed or downloaded in e-GP system by the Tenderer after paying the document fees, up to the day prior to the deadline for the submission of e-Tender through e-GP member bank's network and updated the payment transaction by the bank in e-GP system
24. Language of Tender	24.1 Tender shall be in English language. Correspondence and documents relating to the Tender shall be in the English language. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English or Bangla language, in which case, for purposes of interpretation of the Tender, such translation shall govern.
	24.2 Tenderer shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
25. Contents of Tender	<p>25.1 The Tender prepared by the Tenderer shall comprise the following:</p> <p>(a) the Tender Submission Letter (Form e-PW3-1) as furnished in Section 5: e-Tender Forms;</p> <p>(b) Tenderer Information (Form e-PW3-2) as furnished in Section 5: e-Tender Forms;</p> <p>(c) the priced Bill of Quantities for each lot in accordance with ITT Clauses 26 and 27;</p> <p>(d) Tender Security as stated under ITT Clauses 34 and 35.</p> <p>(e) Written confirmation authorizing the signatory of the Tenderer including National ID to submit the e-Tender, as stated under ITT Sub Clause 39.4;</p> <p>(f) Valid Trade license to be mapped from e-GP Common document library of the Tenderer ;</p> <p>(g) Documentary evidence of Tax Identification Number (TIN) and Value Added Tax (VAT) as a proof of taxation</p>

	<p>obligations as stated under ITT Sub Clause 5.10 to be mapped from e-GP Common document library of the Tenderer;</p> <p>(h) Technical Proposal describing work plan & method, personnel, equipment and schedules as stated under ITT Clause 30;</p> <p>(i) documentary evidence as stated under ITT Clause 28 and 31 establishing the Tenderer's eligibility and the minimum qualifications of the Tenderer required to be met for due performance of the Works and physical services under the Contract;</p> <p>(j) Documents establishing legal and financial autonomy and compliance with commercial law, as stated under ITT Sub-clause 5.4 in case of government owned entity; and</p> <p>(k) any other document as specified in the TDS.</p>
26. Tender Prices, Discounts and Price Adjustment	26.1 Tenderer shall fill in unit prices for all items of the Works in figures as described in the BOQ. The Total price will be generated automatically by the e-GP system and computation will be done from these BOQ excluding any discount offered..
	26.2 All applicable taxes, custom duties, VAT and other levies payable by the Contractor under the Contract, or for any other causes, as of the date twenty-eight (28) days prior to the deadline for submission of Tenders, shall be included in the unit prices.
	26.3 Unless otherwise provided in the TDS and the Contract, the price of a Contract shall be fixed in which case the unit prices may not be modified in response to changes in economic or commercial conditions.
	26.4 If so indicated under ITT Sub Clause 26.3, Tenders are being invited with a provision for price adjustments. The unit prices quoted by the Tenderer are subject to adjustment during the performance of the Contract in accordance with the provisions of GCC Clause 71 and, in such case the PE shall provide the indexes and weightings or coefficients in Appendix to the Tender for the price adjustment formulae specified in the PCC.
	26.5 PE may require the Tenderer to justify its proposed indexes, if any of those as stated under ITT Sub Clause 26.4, are instructed to be quoted by the Tenderer in Appendix to the Tender.
	26.6 Tenderer shall fill the unconditional discount in percentage (%) in discount form which shall be applicable for all the items of BOQ
27. Tender Currency	27.1 All prices shall be quoted in Bangladesh Taka.
28. Documents Establishing Eligibility of the Tenderer	<p>28.1 Tenderer, if applying as a sole Tenderer, shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, it shall:</p> <p>(a) complete the eligibility declarations in the Tender Submission Letter (Form e-PW3-1);</p> <p>(b) complete the Tenderer Information (Form e-PW3-2);</p> <p>(c) provide completed Subcontractor Information (Form e-PW3-3), if it intends to engage any Subcontractor(s).</p>
	<p>28.2 A Tenderer, if applying as a partner of an existing or intended JVCA shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, in addition to as specified in ITT Sub Clause 28.1, it shall:</p> <p>(a) provide for each JVCA partner, completed JVCA Partner Information (Form e-PW3-2);</p> <p>(b) provide the JVCA agreement or Letter of Intent along with the proposed agreement of the intended JVCA as stated in ITT Sub Clause 19.1.</p>
29. Documents Establishing the Eligibility and Conformity of Materials, Equipment and Services	29.1 Tenderer shall submit documentary evidence to establish the origin of all Materials, Equipment and services to be supplied under the Contract as stated under ITT Clause 6.
	29.2 To establish the conformity of the Materials, Equipment and services to be supplied under the Contract, the Tenderer shall furnish, as part of its Tender, the documentary evidence (which may be in the form of literature, specifications and brochures, drawings or data) that these conform to the technical specifications and standards specified in Section 7, General Specifications and Section 8, Particular Specifications.
30. Documents Establishing Technical Proposal	30.1 Tenderer shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in TDS, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work requirements and the completion time.
31. Documents Establishing the Tenderer's Qualification	<p>31.1 Tenderers shall complete and submit the Tenderer Information (Form e-PW3-2) and shall include documentary evidence, as applicable to satisfy the following:</p> <p>(a) general experience of construction works as stated under ITT Sub Clause 15.1(a);</p> <p>(b) specific experience in construction works of similar nature and size as stated under ITT Sub Clauses 15.1(b)</p> <p>(c) average annual construction turnover for a period as stated under ITT Sub Clause 16.1(a);</p> <p>(d) adequacy of minimum liquid assets i.e. working capital or credit line(s) as stated under ITT Sub Clause 16.1(b)</p> <p>(e) technical and administrative personnel along with their qualification and experience proposed for the Contract as stated under ITT Clause 17;</p> <p>(f) major items of construction equipment proposed to carry out the Contract as stated under ITT Clause 18;</p> <p>(g) authority to seek references from the Tenderer's bankers or any other sources.</p> <p>(h) information regarding any litigation, current or during the last five years, in which the Tenderer is involved, the parties concerned, and disputed amount as stated under Sub Clause 16.1(c);</p>
	31.2 PE shall disqualify a Tenderer who submits a document containing false information for purposes of qualification or mislead or makes false representations in proof of qualification requirements. A PE may declare such a Tenderer ineligible, either indefinitely or for a stated period of time, from participation in future procurement proceedings

	31.3 PE may disqualify a Tenderer if it finds at any time that the information submitted concerning the qualifications of the Tenderer was materially inaccurate or materially incomplete. Also PE may disqualify a Tenderer who has record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays, litigation history or financial failures.
32. Validity Period of Tender	32.1 Tenders shall remain valid for the period specified in the TDS after the date of Tender submission deadline, as stated under ITT Sub Clause 40.1.
33. Extension of Tender Validity and Tender Security	33.1 In exceptional circumstances, prior to the expiration of the Tender validity period, the PE may solicit, not later than ten (10) days before the expiry date of the Tender validity, compulsorily all the Tenderers' consent to an extension of the period of validity of their Tenders.
	33.2 The request for extension of Tender validity period shall state the new date of the validity of the Tender
	33.3 The request from the PE and the responses from the Tenderers will be made through e-GP System
	33.4 Tenderers consenting to the request made by the PE under ITT Sub-Clause 33.1 shall also correspondingly extend the validity of its Tender Security for twenty-eight (28) days beyond the new date for the expiry of Tender validity. Extension of validity of Tender security will be done by the bank registered with e-GP System upon such request to the bank from the Tenderer.
	33.5 Tenderers consenting to the request under ITT Sub- Clause 33.1 shall not be required or permitted to modify its Tender in any circumstances.
	33.6 If the Tenderers are not consenting to the request made by the PE under ITT Sub-Clause 33.1, its Tender will not be considered for subsequent evaluation.
34. e-Tender Security	34.1 e-Tender security will be prepared by the bank registered with e-GP system in favour of the PE upon such request from the Tenderer. e-Tender security shall be kept in custody of the bank and transaction information will be updated in the e-GP system.
	34.2 Amount of the Tender security may be determined on the basis of different percentages for each lot, but the amount in fixed as specified in TDS. If the Tender is a Joint Venture, the Tenderer shall furnish as part of its Tender, in favour of the PE or as otherwise directed on account of the title of the existing or intended JVCA or any of the partners of that JVCA or in the names of all future partners as named in the Letter of Intent of the JVCA, in the amount as stated under ITT Sub Clause 34.2.
35. Form of Tender Security	35.1 The Tender Security shall: (a) at the Tenderer's option, be either; i. in the form of a bank draft or pay order, or ii. in the form of an irrevocable bank guarantee issued by a scheduled Bank of Bangladesh, in the format (Form e-PW3-5) furnished in Section 5: Tender and Contract Forms; (b) be payable promptly upon demand by the PE in the case of the conditions listed in ITT Sub Clause 37.1 being invoked; and (c) remain valid for at least twenty eight (28) days beyond the expiry date of the Tender Validity in order to make a claim in due course against a Tenderer in the circumstances as stated under ITT Sub Clause 37.1.
36. Return of Tender Security	36.1 No Tender Security shall be returned to the Tenderers before contract signing.
	36.2 Unsuccessful Tenderer's e-Tender security will be discharged or released as soon as possible but within 28 days of the end of the e-Tender validity period specified in ITT Sub-clause 32.1.
	36.3 e-Tender security of the Tenderers not consenting to the request under ITT Sub-clause 33.1 in regard to extension of its e-Tender validity shall be discharged or released forthwith.
	36.4 The bank will release the e-Tender security only upon a request from the PE.
37. Forfeiture of Tender Security	37.1 The Tender Security may be forfeited, if a Tenderer: (a) refuses to accept a Notification of Award as stated under ITT Sub Clause 57.1; or (b) fails to furnish Performance Security as stated under ITT Sub Clause 58.1 and 58.3; or (c) refuses to sign the Contract as stated under ITT Sub Clause 62.1 ; or
	37.2 In case e-Tender security is required to be forfeited, PE will instruct the concerned registered bank/branch with the e-GP system and bank/branch in turn will debit the amount and credit it in favour of the PE's bank account.
38. Online Tender Preparation	38.1 Prior to submission of a e-Tender, the Tenderer must ensure that all electronic records and files making up the Tender are completely virus free and also ensure integrity, completeness and authenticity of the tender.
E. Tender e-Submission	
39. e-Submission	39.1 Tenderer shall submit the e-Tender through e-GP system and must be received in completeness prior to the deadline for submission. Tenderer acknowledge the receipt of the tender through the e-GP system
	39.2 The e-Tender submitted through e-GP system by the Tenderer is deemed for all purposes to be the true and legal version, duly authorized and duly executed by the Tenderer and intended to have binding legal effect. e-Signature / Digital Signature will identify and authenticate the Tenderer.
	39.3 Tender submitted online will be stored in encrypted format in the e-Tender box
	39.4 Authorization letter from the firm / company shall be attached with Tender Submission Letter (Form e-PW3-1) to submit the Tender.
	39.5 Submitted Tender containing files those are corrupt or containing virus or are unreadable for any reason, the Tender

	will not be considered.
40. Deadline for submission of e-Tender	40.1 e-Tenders shall be submitted to the e-GP System no later than the date and time specified in the TDS.
	40.2 Submission of large electronic file may take time and as such sufficient time must be allowed to fully transmit all the files prior to the closing time.
	40.3 PE may, at its discretion on justifiably acceptable grounds duly recorded, extend the deadline for submission of Tender as stated under ITT Sub Clause 36.1, in which case all rights and obligations of the PE and Tenderers previously subject to the deadline will thereafter be subject to the new deadline as extended.
	40.4 e-Tenders submitted shall not be allowed to be withdrawn after the deadline for submission.
41. e-Tender Substitution / Modification / Withdrawal	41.1 Tenderer shall be allowed to substitute / modify / withdraw its submitted tender before tender submission deadline.

F. e-Tender Opening and e-Evaluation

42. e-Tender Opening	42.1 e-Tender opening process will be done by decrypt tender functionality as tenders will be stored in time stamped electronic tender box with encryption
	42.2 Tender Opening Committee (TOC) shall open the tender within one (1) hour after tender submission deadline
	42.3 Tender Opening Reports (TORs) will be generated by the e-GP system. TOR will be available after tender opening. The official cost estimate will be shown in TOR after Tender opening.
43. Evaluation of e-Tenders	43.1 e-Tenders shall be examined and evaluated only on the basis of the criteria specified in the e-TD.
	43.2 Tender Evaluation Committee (TEC) shall examine, evaluate and compare Tenders that are responsive to the mandatory requirements of e-TD in order to identify the successful Tenderer.
	43.3 Tenders having quoted the offer in percentage is more than 10 (Ten) percent above or below the official cost estimated of the proposed works, shall be rejected.
44. Evaluation Process	44.1 e-GP System will automatically generate the Tender Evaluation Reports (TERs) to assist the TEC. TEC should review the TERs, confirms the compliance and complete the TERs based on the criteria mentioned in e-TD
	44.2 In case of tie for the lowest evaluated price, the Tenderer shall be selected base on the 'Past Performance Evaluation and rating matrix for different aspects' to be used in assessing the Tenderer's quality as stated below:

Past Performance Evaluation and rating matrix for different aspects

Sl. No	Aspects of Evaluation	Measure of Rating	Past Performance Rating					Points Awarded
1	2	3	4	5	6	7	8	9
1	Number of court cases filed and won against PE during last 5 years (a) Cases filed	No. of Court Cases	≥ 5 nos	< 5 but ≥ 3 nos	< 3 but ≥ 1 no	≤ 1 no	none	
	Points Allocated		0	25	50	75	100	
	Points Awarded							
	(b) Cases won	No. of Court Cases	None	≤ 1 nos	< 3 but ≥ 1 nos	< 5 but ≥ 3 nos	≥ 5 nos	
	Points Allocated		0	25	50	75	100	
	Points Awarded							
	For no Case filed and no Case won, the Points Awarded shall be taken as 200							-
2	Debarred by PE during last 5 years	No. of Years	≥ 5 yrs	< 5 but ≥ 3 yrs	< 3 but ≥ 1 yrs	≤ 1 yrs	none	
	Points Allocated		0	25	50	75	100	
	Points Awarded							
3	Termination of incomplete contract for poor performance by PE during last 5 years	No. of Contracts	≥ 5 contract	< 5 but ≥ 3 contract	< 3 but ≥ 1 contract	≤ 1 contract	none	
	Points Allocated		0	50	75	100	150	
	Points Awarded							

4	Extension of Time beyond original contract period by PE during last 5 years	Percent Time of Contract	≥ 50 % of contract period	< 50% but ≥ 30% of contract period	< 30% but ≥ 10% of contract period	≤ 10% of contract period	none		
	Points Allocated		0	50	75	100	150		
	Points Awarded								
5	Imposition of Liquidity Damages (LD) by PE during last 5 years	Percent Time of Contract	≥ 50 % of contract period	< 50% but ≥ 30% of contract period	< 30% but ≥ 10% of contract period	≤ 10% of contract period	none		
	Points Allocated		0	50	75	100	150		
	Points Awarded								
6	Extension of contracted Defects Liability Period (DLP) by PE during last 5 years	Percent Time of Contract	≥ 50 % of DLP	< 50% but ≥ 30% of DLP	< 30% but ≥ 10% of DLP	≤ 10% of DLP	none		
	Points Allocated		0	50	75	100	150		
	Points Awarded								
7	Declared bankrupt during last 5 years	Year Counting Backward	Year 2	Year 3	Year 4	Year 5	none		
	Points Allocated		0	25	50	75	100		
	Points Awarded								
	Total Points Allocated							1000	-
	Total Points Awarded (Col.9)							-	

In case of multiple EQUALS, their total Turnover of last five (5) years shall determine the ranking in their Past Performance

44.3 TEC may consider a Tender as responsive in the Evaluation, only if it is submitted in compliance with the mandatory requirements set out in the e-TD. The evaluation process should begin immediately after tender opening following four steps:

45. Preliminary Examination	45.1 PE shall examine the Tenders to confirm that all documentation requested in ITT Clause 25 has been provided, to determine the completeness of each document submitted .
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- (a) Tender Submission Letter;
- (b) Priced Bill of Quantities;
- (c) Written confirmation of authorization to submit the Tender; and
- (d) Tender Security.

46. Technical Responsiveness	46.1 If a Tender is not responsive to the mandatory requirements set out in the e-TD, shall not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.
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(a) affects in any substantial way the scope, quality, or performance of the Works specified in the Contract and Tenderer's qualifications mentioned in the Tender Document; or

(b) limits in any substantial way, or is inconsistent with the e-TD, the PE's rights or the Tenderer's obligations under the Contract; or

(c) if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive tenders.

46.3 There shall be no requirement as to the minimum number of responsive tenders.

	46.5 TEC shall evaluate the aspects of the Tender submitted in accordance with ITT Clauses 29, 30, 31 and to confirm that all requirements specified in Section 7: General Specifications and Section 8: Particular Specifications of the e-TD have been met without any material deviation or reservation.
	46.6 Provided that a Tender is responsive, TEC may request that the Tenderer submit the necessary information or documentation through e-GP System within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the prices of the tender quoted in the Priced BOQ. Failure of the Tenderer to comply with the request may result in the rejection of its tender.
	46.7 TEC may regard a Tender as responsive even if it contains; (a) minor or insignificant deviations which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and, conditions or other mandatory requirements set out in the e-TD; or (b) errors or oversights, that if corrected, would not alter the key aspects of the Tender.
47. Clarification on Tender	47.1 TEC may ask Tenderers for clarifications of their Tenders through e-GP System, in order to facilitate the examination and evaluation of the Tenders.
	47.2 Any request for clarifications by the TEC shall not be directed towards making an apparently non-responsive Tender responsive and reciprocally the response from the concerned Tenderer shall not be articulated towards any addition, alteration or modification to its Tender.
	47.3 If a Tenderer does not provide clarifications of its Tender by the date and time, its Tender shall not be considered in the evaluation.
	47.4 Requests for clarification shall be through e-GP system and shall be sent only by the Chairperson of the TEC.
48. Restrictions on Disclosure of Information	48.1 Following the opening of Tenders until issuance of Notification of Award no Tenderer shall, unless requested to provide clarification to its Tender or unless necessary for submission of a complaint, communicate with the concerned PE
	48.2 Tenderers shall not seek to influence in anyway, the examination and evaluation of the Tenders
	48.3 Any effort by a Tenderer to influence a PE in its decision concerning the evaluation of Tenders, Contract awards may result in the rejection of its Tender as well as further action in accordance with Section 64 (5) of the Public Procurement Act 2006
	48.4 All clarification requests shall remind Tenderers of the need for confidentiality and that any breach of confidentiality on the part of the Tenderer may result in their Tender being disqualified.
49. Financial Evaluation	49.1 TEC shall evaluate each Tender that has been determined, up to this stage of the evaluation, to be responsive to the requirements set out in the e-TD.
	49.2 To evaluate a Tender, the TEC shall consider the Tender price, excluding Provisional Sums and the provision, if any, for contingencies in the priced Bill of Quantities, but including Daywork items.
	49.3 Variations, deviations and other factors which are in excess of the requirements of the e-TD or otherwise result in unsolicited benefits for the PE will not be taken into account in e-Tender evaluation.
	49.4 The estimated effect of any price adjustment provisions under GCC Clause 71, applied over the period of execution of the Contract, will not be taken into account in e-Tender evaluation.
	49.5 If so indicated in the ITT Sub Clause 1.1 the PE may award one or multiple lots to one Tenderer following the methodology specified in ITT Sub Clause 49.6.
	49.6 To determine the lowest-evaluated lot or combination of lots, the TEC will take into account the resources sufficient to meet the qualifying criteria for the individual lot or aggregate of those multiple lots.
	49.7 TEC may increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 58.1 but not exceeding twenty five (25) percent of the Contract price, if in the opinion of TEC, it is found that the Tender is significantly below the updated official estimated or unbalanced as a result of front loading.
50. Price Comparison	50.1 TEC will compare all responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 56.
	50.2 In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance as stated in ITT sub clause 44.2 including factors with the PE shall be selected, whereby factors such as delivery period, quality of Works delivered, complaints history and performance indicators could be taken into consideration.
	50.3 In the event that there is a tie for the lowest price and none of the Tenderers has the record of past performance with the PE as stated under ITT Sub Clause 50.2, then the Tenderer shall be selected, subject to firm confirmation through the Post-qualification process, after consideration as to whether the Tenderer has demonstrated in its Tender superior past performance with the other Procuring Entities or a more efficient work plan and work methodology.
	50.4 The successful Tenderer as stated under ITT Sub Clauses 50.1, 50.2 and 50.3 shall not be selected through lottery under any circumstances.
51. Negotiations	51.1 No negotiations shall be held during the Tender evaluation or award with the lowest or any other Tenderer.
	51.2 TEC may, however, negotiate with the lowest evaluated Tenderer with the objective to reduce the Contract price by reducing the scope of works or a reallocation of risks and responsibilities, only when it is found that the lowest evaluated Tender is significantly higher than the official estimate; the reasons for such higher price being duly analyzed.
	51.3 If the TEC decides to negotiate for reducing the scope of the requirements under ITT Sub Clause 51.2, it will be required to guarantee that the lowest Tenderer remains the lowest Tenderer even after the scope of work has been revised and shall further be ensured that the objective of the Procurement will not be seriously affected through this

	reduction.
	51.4 In the event that the TEC decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award and shall not be penalised in any way for rejecting the proposed award.
52. Post-Qualification	52.1 The determination on Post-Qualification shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT Clause 31, clarifications in accordance with ITT Clause 47 and the qualification criteria indicated in ITT Clauses 13 to 19. Factors not included therein shall not be used in the evaluation of the Tenderer's qualification.
	52.2 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in rejection of the tenderer's tender, in which event the PE shall proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily
	52.3 TEC may verify information contained in the Tender by visiting the premises of the Tenderer as a part of the post qualification process, if practical and appropriate.
53. PE's Right to Accept any or to Reject Any or All Tenders	53.1 PE reserves the right to accept any Tender, to annul the Tender proceedings, or to reject any or all Tenders at any time prior to contract award, without thereby incurring any liability to Tenderers, or any obligations to inform the Tenderers of the grounds for the PE's action.
54. Rejection of All e-Tenders	54.1 PE may, in the circumstances as stated under ITT Sub-Clause 54.2 reject all Tenders following recommendations from the Evaluation Committee only after the approval of such recommendations by the Head of the PE.
	54.2 All Tenders can be rejected, if - (a) the price of the lowest evaluated Tender exceeds the official estimate, provided the estimate is realistic, subject to ITT Sub Clause 51.2 ; or (b) there is evidence of lack of effective competition; such as non-participation by a number of potential Tenderers; or (c) the Tenderers are unable to propose completion of the contract within the stipulated time in its Tender, though the stipulated time is reasonable and realistic; or (d) all Tenders are non-responsive; or (e) evidence of professional misconduct, affecting seriously the Procurement process, is established pursuant to Rule 127 of the Public Procurement Rules, 2008.
	54.3 Notwithstanding anything contained in ITT SubClause54.2 Tenders may not be rejected if the lowest evaluated price is in conformity with the market price.
	54.4 PE may, on justifiable grounds, annul the Procurement proceedings prior to the deadline for the submission of Tenders.
55. Informing Reasons for Rejection	55.1 Notice of the rejection, will be given promptly within seven (7) working days of decision taken by the PE to all Tenderers and, the PE will, upon receipt of a request through e-GP System, communicate to any Tenderer the reason(s) for its rejection but is not required to justify those reason(s).
G. Contract Award	
56. Award Criteria	56.1 PE shall award the Contract to the Tenderer whose Tender is responsive to all the requirements of the e-TD and that has been determined to be the lowest evaluated Tender, provided further that the Tenderer is determined to be Post-qualified in accordance with ITT Clause 52.
	56.2 A Tenderer will not be required, as a condition for award, to undertake responsibilities not stipulated in the e-TD, to change its price, or otherwise to modify its Tender.
57. Notification of Award	57.1 Prior to the expiry of the Tender Validity period and within seven (7) working days of receipt of the approval of the award by the Approving Authority, the PE shall issue the Notification of Award (NOA) to the successful Tenderer through e-GP System.
	57.2 The NOA, attaching the contract as per the sample (Form e-PW3-7) to be signed, shall state : (a) the acceptance of the Tender by the PE; (b) the price at which the contract is awarded; (c) the amount of the Performance Security and its format; (d) the date and time within which the Performance Security shall be submitted; and (e) the date and time within which the Contract shall be signed.
	57.3 NOA shall be accepted through e-GP System by the successful Tenderer within seven (7) working days from the date of issuance of NOA.
	57.4 Until a formal contract is signed, the NOA will constitute a Contract, which shall become binding upon the furnishing of a Performance Security and the signing of the Contract by both parties.
58. Performance Security	58.1 Performance Security shall be furnished by the successful Tenderer in the amount as specified in the TDS.
	58.2 Performance security will be issued by the bank registered with e-GP System on the request of the successful Tenderer . Bank shall immediately update the payment transaction information in the e-GP System
	58.3 PE shall increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 49.7.
	58.4 Upon instruction from the PE, the Performance Security will be credited in the PE's bank account as compensation for any loss resulting from the contractor's failure to complete its obligations under the Contract

59. Form and Time Limit for Furnishing of Performance Security	59.1 The Performance Security shall be in the form of a Bank Draft, Pay Order or an irrevocable Bank Guarantee in the format (Form e-PW3-8) as stated under ITT Clause 58, issued by any bank registered with the e-GP System.
	59.2 Within fourteen (14) days from the date of acceptance of the NOA but not later than the date specified therein, the successful Tenderer shall furnish the Performance Security for the due performance of the Contract in the amount as stated under ITT Sub Clauses 58.1 or 58.3.
60. Validity of Performance Security	60.1 The Performance Security shall be required to be valid until a date twenty eight (28) days beyond the Intended Completion Date as specified in e-TD.
61. Contract Signing	61.1 At the same time as the PE issues the NOA, the PE shall send the draft Contract Agreement and all documents forming the Contract to the successful Tenderer.
	61.2 Within twenty-eight (28) days of the issuance of NOA, the successful Tenderer and the PE shall sign the contract.
	61.3 Failure of the successful Tenderer to submit the Performance Security, pursuant to ITT Sub-Clause 58.1, 58.3 or sign the Contract, pursuant to ITT Sub-Clause 62.2, shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the PE may award the Contract to the next lowest evaluated Tenderer, whose Tender is responsive and is determined by the TEC to be qualified to perform the Contract satisfactorily.
62. Publication of Notification of Award of Contract	62.1 NOA shall be published in the e-GP system.
63. Debriefing of Tenderers	63.1 Tenderer shall be debriefed through e-GP system by PE upon request without disclosing information about any other Tenderer.
	63.2 In the case of debriefing, confidentiality of the evaluation process shall be maintained.
64. Right to Complain	64.1 Tenderer has the right to complain in accordance with the Public Procurement Act 2006 and the Public Procurement Rules, 2008.