

# **Standard Operating Procedures (SOP)**

## **For**

### **Bangladesh Agricultural Infrastructure Development Program (BAIDP)**

### **Local Government Engineering Department (LGED)**

#### **Introduction:**

The objective of the Standard Operating Procedures (SOPs) is to assist in strengthening the effectiveness, efficiency, and accountability of financial management and procurement within LGED donor funded projects. LGED has rules and regulations to assist it in the procurement process; a set of SOP's will assist LGED in carrying out a transparent and uniform procurement tendering process. To be useful, SOPs are intended to be followed without deviation, and provide all the required details and decision branches required to perform a given procedure

#### **Operating Procedures (SOPs):**

These standard operating procedures should be guided by a number of underlying principles:

- Be practical, and easy to implement by both parties;
- Improve the ability of LGED to produce a comprehensive system in auditable condition;
- Strive for simplicity and clarity of procurement and financial management systems, and establish clear expectations for analytical performance and quality assurance and quality control (QA/QC);
- Provide a consistent framework for future foreign funded projects.

FOR this project, the responsibility and work procedures for LGED and USAID are outlined in following steps:

#### **I. Tender Document Template Review Process**

#### **II. Preparation of Solicitation Package and its Issuance System**

- Pre- tender Conference
- Tender Amendments
- Cancellation of Tenders
- Release of Acquisition Information

#### **III. Tender Handling Procedure**

- Open tenders
- Tabulate tenders
- Review tender s
- Open tender File

#### **IV. Tenders Evaluation Procedure**

- Preliminary Examination
- Technical Examination and Responsiveness
- Financial Evaluation and Price Comparison
  
- Post-qualification of the Tender
- Determination & Findings

#### **V. Contract Pre-approval Procedure**

- Review of Contractor's Background
- Develop D&F of Responsibility
- Disclosure of Information

#### **V. Contract Approval Procedures**

- Contract Approval Package
- Approval of Contract
- Notice of Award
- Performance Security
- Distribution Process

#### **VI. Post Award Process**

- Pre-construction Conference
- Notice to Proceed

A discussion of all these steps is provided in ensuing section.

#### **I. Tender Document Template Review Process**

The major content of the solicitation template and review process are described below:

##### **A. Tender Document Template & Review System:**

1. The TD template will be based on the existing Standard Tender Document (STD) – PW3 standards of Central Procurement Technical Unit (CPTU) of Bangladesh;
2. Tender will be based on estimated line item quantities only (Bill of Quantities), where the tenders will quote their rates;
3. LGED will prepare necessary Scope of Work (SOW), drawings and specifications and will incorporate those documents in the relevant sections of the tender document;
4. For each sub-project LGED will prepare engineering estimate, which is also known as official Cost Estimate (OCE) based on the design document and specifications which will be shared with the USAID;

5. This OCE is the internal document and not for circulation to any vendor. This OCE will serve the following functions:
  - i. USAID will use this OCE for their funding certification; and
  - ii. It will serve as the background document during the tender evaluation process to identify balanced tenders.
6. All procurements for this project will be based on open market competitive tendering system and will avoid lottery system for the selection of contractors;
7. The tender document must contain the selection criteria, contractor's qualification including past performance histories clearly defined so that tenders can understand the requirements to be eligible for prospective awards;
8. The tender document will contain information on pre- tender conference with date time and locations. The pre- tender conference will be mandatory;
9. If the tender document allows subcontracting provision, the tender document will require that the potential contractors submit their subcontracting plans, including area of their proposed trades with the tendering document so that the ultimate awardee cannot sell the Work Order to any 3<sup>rd</sup> party;
10. The tender document will contain a check list and all tenderers will submit all necessary documents with their tendering package to be eligible for review by TEC. The list of which contains, i) tenderer's qualification including past performance records (USAID will include a template to capture such information), ii) financial solvency certificate, iii) list of available equipment required for the project work or the ability to arrange such equipment (a pre-rental agreement with the equipment owner will meet the requirement), and iv) Curriculum Vitae (CVs) of contractor's proposed Project Manager, Site Engineer, and Site Superintendent;
11. The tender documents will contain information on invoicing system including progress payment (monthly basis); retainage, and final billing system. The final invoice submittal will also include the release of waiver to keep LGED harmless with any other future claim, and contract closure procedures;
12. The tender documents will state the total performance period for the contract and will be effective from the date of the issuance of the Commencement letter issued by the Executive Engineer (EE);
13. The procurement plan will contain information on contract approval and contract awarding authorities;
14. This TD will be vetted through the Chief Engineer of LGED and USAID Activity Manager or their designees;
15. Once the feedback is received from USAID, all necessary and acceptable comments will be incorporated in the solicitation template and the final template will be signed by the Advisor and copies will be issued to USAID and LGED for necessary action.

## **II. Preparation of Solicitation Document and Solicitation Issuance System:**

A. Project specific Tender Documents will be developed following the pre-approved tender template, so that all tenders associated with this project maintains uniform procurement procedure.

The summary of this step is as follows:

1. Executive Engineer will prepare the project specific Tender document for the issuance;
2. A copy will contain all relevant documents and will be forwarded to LGED and USAID or their designees.
3. For acceleration of the procurement process it is requested that the relevant parties send their feedbacks to PD within 5 working days. PD will incorporate all necessary comments or feedbacks, if applicable, in the tender package;
4. If PD does not receive any feedback from the USAID within this specified period, it will be assumed that the document is deemed approved;
5. Solicitation Issuance System should be consists of,
  - i. Setup the Tender Issuance Date
  - ii. Setup the Pre-Tender Conference Date
  - iii. Setup Price for the tender document
  - iv. Issue Notice to the Newspaper and LGED websites and CPTU website, where applicable
  - v. Issue Solicitations
  - vi. Amendment to Solicitation
6. Once the tender issuance date and pre-tender conference date and price for the tender document are fixed and the pre-approved package is received by the Executive Engineer from the Project Director, necessary tender notices will be published.
7. Tender notices will be published in at least two widely circulated National Newspapers (one in English and one in Bengali), notices will also be published in at least one Bengali local newspaper (published from the nearest District Headquarters of the project location). LGED will also publish the notices in their CPTU websites, where applicable.
8. All tenders will be received at a multiple location and this information will be included in the Tender document.
9. Both EE and PD will maintain copies of the final solicitation package (including all drawings and specifications), OCE, both internal and external communication documents (feedback and approval documents), copies of notices published in newspapers and websites, newspaper payment voucher. These files must be kept in auditable format.
10. PD will maintain all these documents electronically for all contracts.

#### **B. Pre- tender Conference:**

A pre- tender conference will be held as a means of briefing prospective tenderers and explaining specifications, drawings and other solicitation requirements as early as possible after the invitation has been issued and before the tenders are opened.

The conference will be conducted in accordance with the following procedures:

1. A pre- tender/pre-proposal conference will be conducted on location, date and time included in the tender document for the purpose of answering questions regarding this solicitation.
2. A record will be kept of those in attendance. This sign in sheet at a minimum will contain meeting date, the names, addresses, e-mail and telephone numbers of all attendees.
3. Tenderers are requested to submit questions to the point of contact (Executive Engineer) no later than the prescribed time noted in the tender document. Questions and or queries received after the deadline will not be considered.
4. Responses to questions will be provided in writing to all vendors who attend the per-tender conference. In addition, a copy of the questions with answers will be posted on the LGED website.
5. If an amendment is issued, normal procedures relating to the acknowledgment and receipt of tender amendments shall apply.
6. A record of the conference shall be made and furnished to all prospective tenderers. The record should include minutes of the meeting, including questions and answers.

#### **C. Amendment of Invitation for Tenders:**

1. If it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous invitation, such changes shall be accomplished by an amendment to the invitation for tenders using a standard form, Amendment of Solicitation/ Modification of Contract Amendments shall be sent, before the time for tender opening, to everyone to whom invitations have been furnished and shall be displayed on the LGED website.
2. Before amending an invitation for tenders, the period of time remaining until tender opening and the need to extend this period shall be considered. When only a short time remains before the time set for tender opening, and the proposed amendment has the possibility of impacting the tender price, consideration should be given to notifying tenderers of an extension of time by telegrams or telephone. Such extension must be confirmed in the amendment.
3. No award shall be made on the invitation unless such amendment has been issued at least one week to permit all prospective tenderers to consider such information in submitting or modifying their tenders.

**D. Cancellation of Invitations before opening:**

1. The cancellation of an invitation for tenders usually involves a loss of time, effort, and money spent by the Government and tenderers. Invitations should not be cancelled unless cancellation is clearly in the public interest; *e.g.*,
  - i. Where there is no longer a requirement for the procurement; or
  - ii. Where amendments to the invitation would be of such magnitude that a new invitation is desirable.
2. When an invitation, issued other than electronically, is cancelled, tenders that have been received shall be returned unopened to the tenderers and notice of cancellation shall be sent to all prospective tenderers to whom invitations were issued. When an invitation issued electronically is cancelled, a general notice of cancellation shall be posted electronically, the tenders received shall not be viewed, and the tenders shall be purged from primary and backup data storage systems.
3. The notice of cancellation shall (1) identify the invitation for tenders by number and short title or subject matter, (2) briefly explain the reason the invitation is being cancelled, and (3) where appropriate, assure prospective tenderers that they will be given an opportunity to tender on any re-solicitation of tenders or any future requirements for the type of supplies or services involved. Cancellations shall be recorded in the form of a memo, duly signed and approved by EE and PD and a copy will be delivered to USAID..
4. In case of re-tendering the process of tendering will be applicable and PD will take necessary approval from CE and a copy will be forwarded to USAID.

**E. Release of acquisition information:**

1. *Before Tender.* Information concerning proposed acquisitions shall not be released outside the Government before tender except for pre-solicitation notices or synopses of procurement. Within the Government, such information shall be restricted only to those who are working with the Tender issuance system. LGED will not release any information other than public information to any individual or entity which might influence the tender outcomes. When released, it shall be made (1) to all prospective tenderers, and (2) as nearly as possible at the same time, so that one prospective tenderer shall not be given unfair advantage over another.
2. *After Tender.* Discussions with prospective tenderers regarding a Tender shall be conducted and technical or other information shall be transmitted only by the TEC. The TEC shall not furnish any information to a prospective tenderer that alone or together with other information may afford an advantage over others. However, general information that would not be prejudicial to other prospective tenderers may be furnished upon request; *e.g.*, explanation of a particular contract clause or a particular condition of the schedule in the invitation for tenders, and more specific information or clarifications may be furnished by amending the solicitation. For any amendment which might have material impact, should be communicated with USAID for their concurrence.



### III. Tender Handling Procedures

The Head of Procurement Entity (HOPE), for LGED this is the Chief Engineer, will appoint a Tender Opening Committee (TOC) to open all tenders.

1. Tender Opening - As normal practice, tenders will be opened in public according to the date, venue and time listed in the solicitation.
2. The Tender Opening Committee (TOC) will prepare a Tender Opening Sheet (TOS) for the tender opening attendees with information such as name, company, address, telephone and fax numbers and e-mail address.
3. Tenders shall be opened in one location, immediately, but no later than three hours, after the deadline for submission of Tenders at the place as specified in the Tender document
4. Tenderers or their authorised representatives will be allowed to attend and witness the opening of Tenders, and will sign a register evidencing their attendance
5. Tender results with particular information, such as tender number, date and time of tender opening, tenderer's name, tender price, tender security, authorized signature and seal of the tenderer, and other information as required must be read loudly and recorded in the tender opening sheet.
6. Any tender received after the stipulated time and date will be summarily rejected without opening the tender and will be returned to the tender in writings.
7. EE's office will develop and manage a file containing all tenders received, including but not limited to Tender Tabulation Sheet, List of all attendees, and notes and remarks made by the Chair of the TOC.

### IV. Tender Evaluation Procedures:

The Head of Procurement Entity (HOPE), for LGED this is the Chief Engineer, will appoint a Tender Evaluation Committee (TEC) to open all tenders. TEC members will sign confidentiality statements not to disclose any confidential information outside the TEC members. TEC members, including members of their immediate families, will not have any financial interest in companies submitting tenders and their proposed sub-contractors. This committee will adhere with the following principles;

1. Tenders shall be examined and evaluated only on the basis of the criteria specified in the Tender Document.
2. The TEC shall examine, evaluate and compare Tenders that are substantially responsive to the requirements of Tender Documents in order to identify the successful Tenderer.
3. The TEC will consider a Tender responsive that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. The evaluation process should begin immediately after tender opening, following four broad steps:
  - (a) Preliminary Examination
  - (b) Technical Examination and Responsiveness
  - (c) Financial Evaluation and Price Comparison
  - (d) Post-qualification of the Tenderer
  - (e) Determination & Findings

**(a) Preliminary Examination:**

The TEC shall examine the tenders to confirm that all documentation requested in the tender package has been provided, to determine the completeness of each document submitted.

If any of these following documents is missing, the tender will be rejected:

- Tender Submission Letter;
- Priced Bill of Quantities;
- Written confirmation of authorization to commit the Tenderer; and
- Tender Security.

**(b) Technical Examination and Responsiveness**

TEC will evaluate the technical merits of all tenders based on the followings:

1. The TECs determination of a tender's responsiveness is to be based on the pre-approved criteria disclosed in the tender document;
2. A substantially responsive tender is one that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
  - i) affects in any substantial way the scope, quality, or performance of the works specified in the Contract; or
  - ii) limits in any substantial way, or is inconsistent with the Tender Documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
  - iii) if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive tenders.
3. TEC shall examine the tender to confirm that all terms and conditions specified in the General Conditions of Contracts (GCC) and the Particular Conditions of Contracts (PCC) have been accepted by the Tenderer without any material deviation or reservation.
4. The TEC shall evaluate the technical aspects of the tender submitted in accordance with Instructions to the Tenderers (ITT) in relevant clauses, to confirm that all requirements specified in the: General Specifications and Particular Specifications of the Tender Document have been met without any material deviation or reservation.

**(c) Financial Evaluation**

1. The TEC will evaluate each Tender that has been determined, up to this stage of the evaluation, to be substantially responsive to the requirements set out in the Tender Document
2. To evaluate a Tender from financial aspect, the TEC will consider the following:
  - i) the Tender price are balanced, complete and competitive;
  - ii) adjustments for correction of arithmetical errors pursuant to ITT;
  - iii) adjustments in order to take into consideration the unconditional discounts or methodology for application of the discount offered;
  - iv) adjustments for any other acceptable variations or deviations pursuant to ITT
3. To determine the lowest-evaluated tender, the TEC will take into account:
  - i) the experience and resources sufficient to meet the aggregate of the qualifying criteria for the project work;



- ii) the lowest-evaluated Tender calculated in accordance with all the requirements of Evaluation Criteria;
  - iii) the price reduction on account of discount per lot or combination of lots and the methodology for application of the discount as offered by the Tenderer in its Tender; and
  - iv) the Contract-award sequence that provides the optimum economic combination on the basis of least overall cost of the total Contract package taking into account any limitations due to constraints in Works or execution capacity determined in accordance with the post-qualification criteria stated in ITT
4. If the tender, which results in the lowest Evaluation Tender Price, is substantially below the Engineering Estimate or seriously unbalanced in the opinion of the Procuring Entity, the Procuring Entity may require the Tenderer to produce details price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the TEC may require that the amount of the performance security set forth in ITT be increased at the expenses of the Tenderer to a level sufficient to protect the Procuring Entity against financial loss in the event of default of the successful Tenderer under the Contract. TEC's decision on this matter will be final.

**(d) Price Comparison:**

1. The TEC will compare all substantially responsive Tenders to determine the lowest-evaluated Tender, in accordance with relevant clauses of ITT
2. In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance with the Procuring Entity shall be selected, whereby factors such as delivery period, quality of works delivered, complaints history and performance indicators could be taken into consideration.
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 any government entities as stated under ITT, 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 private entities or a more efficient work programme and work methodology.
4. The successful Tenderer shall be selected through lottery under these circumstances after receiving written authorizations from USAID and HOPE.

**(e) Post Qualification:**

1. The TEC shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive tender is qualified to perform the Contract satisfactorily.
2. The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, clarifications in accordance with ITT, if any, and the qualification criteria indicated in ITT.
3. An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer.
4. The 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.

**(f) Determination and Findings (D&F) for Award:**

1. "Determination and Findings" means a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions. The "determination" is a conclusion or decision supported by the "findings." The findings are statements of fact or rationale essential to support the determination and must cover each requirement of the statute or regulation.
2. The D&F will be initiated by the Executive Engineer duly signed and supported by evidences and forward it to contract approval authority. The Project Director will concur the document by putting his signature on the document before the CE approves it.

**(g) Content of D&F:**

Each D&F shall set forth enough facts and circumstances to clearly and convincingly justify the specific determination made. As a minimum, each D&F shall include, in the prescribed agency format, the following information:

1. Identification of the agency and of the contracting activity (Project Caption), and specific identification of the document (Tender Number) as a "Determination and Findings."
2. The Contract Amount.
3. Nature and/or description of the action being approved. (A brief summary of the project scope).
4. Citation of the appropriate statute and/or regulation upon which the procurement was carried out.
5. Findings that detail the particular circumstances, facts, or reasoning essential to support the determination. This includes how many tenders were received, their prices, a brief recommendation by the TEC in determining the lowest, responsive and responsible tenderer. Necessary supporting documentation shall be attached with the D&F.
6. A determination, based on the findings, will be made that the proposed action is justified under the applicable statute or regulation.
7. Signatures and dates of the Executive Engineer and the Project Director.

**(h) Restriction on Disclosure of Information:**

*After the opening of tenders, information relating to the examination, clarification, and evaluation of tenders and recommendations for award shall not be disclosed to tenderers or other persons not officially concerned with the evaluation process until the award of the contract is announced.*

**V. Contract Approval Procedure:**

- A. All contracts for this project will be approved by the Chief Engineer of LGED. Before the approval, the Project Director will forward the award package to CE and getting his concurrence will forward the package to USAID for review and comments. USAID will have 5 working days for review and comment at this final stage. USAID can send their comments or led a discussion with the PD for any question or clarifications it might have. To avoid the expiration of the tender period (tender holding period) if the PD does not receive necessary comments from the USAID within this time frame, it will be assumed deemed approved.

## **B. Contract Approval Summary:**

The Executive Engineer's office will prepare a package containing all necessary supporting documents. The package will have,

1. Business Clearance Memorandum: This memorandum will be prepared by the office of the Executive Engineer containing a chronology of the procurement, scope of work, performance period, number of tenders received, recommendation from the Procurement Evaluation Committee, lowest evaluated responsive and responsible tenderers information and contract amount. All the required attachments should be annotated properly.
2. Minimum Attachments:
  - i. Copies of published Tender Notices;
  - ii. Copy of the Solicitation Package (including amendments, if any);
  - iii. Copies of all tenders received, including all necessary surety bonds;
  - iv. Tender Evaluation Committee Recommendations (signed, including price analysis; where applicable
  - v. Copy of the Government Estimate ( OCE/EE'S)
  - vi. Copy of the D&F;
  - vii. Pertinent Correspondence;
  - viii. Funding Documents
3. Once the contract is approved, it will be routed back through the Project Director to Executive Engineer for the execution of the Contract. The Executive Engineer will issue a Notification of Award to the successful Tenderer.

## **C. Notification of Award:**

The Notification of Award, attaching the contract to be signed, shall state :

- i. the acceptance of the Tender by the Approving Authority;
- ii. the price at which the contract is awarded;
- iii. the amount of the Performance Security and its format;
- iv. the date and time within which the Performance Security shall be submitted; and
- v. the date and time within which the Contract shall be signed.

## **D. Performance Security:**

1. The Performance Security shall be provided by the successful Tenderer in the amount as specified in the TDS and denominated in the currencies in which the Contract Price is payable.
2. The proceeds of the Performance Security shall be payable to the Procuring Entity unconditionally upon first written demand as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
3. The Performance Security may be in the form of a Bank Draft, Pay Order or an irrevocable Bank Guarantee in specified format, issued by any scheduled Bank of Bangladesh acceptable to the Procuring Entity.
4. Once the contract is signed by the Executive Engineer, his/her office shall notify the Central Procurement Technical Unit for publication award notice in their website if the contract price exceeds BDT 10 million.

#### **E. Contract Distribution:**

In addition, EEs office will provide the signed contract to,

- Contractor
- Project/Site Engineer
- PD's Office (signed contract, copy of the performance security along with the approved business clearance memorandum with all necessary attachments for file and computer repository)
- USAID
- Executive Engineer's Office file

#### **VI. De-briefing meeting:**

After the award of the contract the EE will contact the successful contractor and will conduct a Post Award Conference. The purpose of this conference is to provide the contractor with all necessary information to assist the company in successful performance of this contract. In this conference,

1. The EE will go over all salient conditions of the contract, performance period of the contract, contract amount, submittals and approval requirements for materials, performance review system, performance schedule & reporting requirements, contract invoicing system, site conditions to name a few.
2. Minutes of the meeting will be recorded, a sign in sheet will be maintained and contact information of all relevant parties will be exchanged and recorder in the contract file.
3. For this project the EE will not be authorized to take any action that alters the contract. Any change in contract should be performed separately and the approval process of such changes should follow the agency's Variation Order approval procedures.

APPROVED BY:



LGED PROGRAM MANAGER

 5/7/2014

Date USAID PROGRAM MANAGER Date