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Award and Contract Execution Procedure



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Award and Contract Execution Procedure

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Award and Contract Execution Procedure

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Award and Contract Execution Procedure

1.0 PURPOSE

To set forth the steps following the Pre-Award Meeting to the issue of Conformed Contract Documents.

2.0 SCOPE

This procedure applies to Contract activities conducted under the administration and management of the Contract Management Department.

3.0 DEFINITIONS

Term	Definition
2nd Party	Contractor, Consultant, Engineer or Supplier who expresses interest in prequalifying for a specific package of Works or Services and upon Award becomes the entity contracted to perform such Works or Services
Agreement	Contract or Purchase Order (collectively "Agreement") between the Entity and a 2nd Party.
Conformed Contract	The Contract Documents which are identical in format and content to the Executed Contract (i.e., are printed from an original executed Contract Document).
Construction Contractor	The Main or Principal Contractor responsible for undertaking the Construction Works on the Project.
Draft Contract	The Contract Documents conforming in content to the proposed Executed Contract
Entity	A Saudi Government organization which is responsible for the delivery of government funded infrastructure construction projects.
Executed Contract	The Contract Documents executed by both parties to the Contract
ITT	Invitation to Tender documents.
Laws	Government Tenders and Procurement Law issued pursuant to Royal Decree No. (M/128) dated 13/11/1440 AH and the Implementing Regulations thereof issued pursuant to the Minister of Finance's Resolution No. (1242) dated 21/3/1441 AH and as amended thereafter.
Pre-Award Meeting	Meeting prior to award.
Project	Project to be undertaken by an Entity that consists of single or multiple Agreements with 2nd Parties to perform Works or Services as part of the execution plan to deliver such a Project. Scope of Work and/or services identified by Entity that needs to be executed.
Regulations	Implementing Regulations of Government Tender and Procurement Law Minister of Finance Decision No.362 dated 20 Safar 1428H/10 March 2007 as amended from time to time
Requisition	Requisition for Tendering
Services	Provision of technical or consulting services for design, studies, investigations (geotechnical, surveying testing), specialist advice or the like that are not the Works but necessary to support them



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Site Construction Department	Department within the Project Management Company that is responsible for Construction activities/operations.
Site Contracts Department	Department within the Project Management Company that is responsible for administering Contracts.
Site Document Control	Department within the Project Management Company that is responsible for the control of all project Documents using ECMS.
Site Engineering Department	Department within the Project Management Company that is responsible for Engineering or design activities/operations.
Tenderer	A 2nd Party that has prequalified for bidding a specific package for Works or Services, sometimes referred to as a Tenderer
TSR	Tender Status Report
Works	Construction or supply of goods, facilities or the like of permanent and temporary nature as contracted by the Entity

4.0 REFERENCES

NOT USED

5.0 ROLES & RESPONSIBILITIES

The following defines the individual roles and responsibilities associated with the Award and Execution of a Contract:

Individual	Role
Administering Department	As required by the scope of the Draft Contract shall each review the Draft Contract and provide comments and/or concurrence to its completeness to the Contract Management Department Specialist prior to the submission to the Contracts Management Department Manager for approval
Contracts Management Department Manager	Reviews and conforms the Contract prior to execution and ensures that the notification of the Award Letter to the Ministry of Finance is prepared and compliant
Contracts Specialist	Prepares the Draft Contract for execution while working with the Originating Department to ensure that the ITT Documents have been updated to reflect the Addenda, Negotiations and applicable clarifications for Award including respective information extracted from the Tenderers Response that shall be incorporated into the Contract Documents for execution.
Finance Department	Responsible for reconfirming that the budget approved for the Contract is still valid for the Award to proceed
Originator	Ensures that the latest ITT Documents are updated through issuance of a Requisition for Award to capture all modifications to the ITT during the Tender and Negotiations.



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6.0 PROCESS

The Contracts Management Department Manager is responsible to ensure that the following activities relative to the prequalification of Tenderers and establishing Tenderers' lists is adhered to:

6.1 Preparing the Draft Contract

6.1.1 Originating Department Input

The Originating Department prepares the Technical Package (Specifications and Drawings for the Contract Documents).

The original Tender Documents shall be used as a base and the package will incorporate all changes made to the Technical Package either by Addendum or by negotiation prior to Contract Execution. It will also include all substitutions, amendments, or additions contained in the accepted Tenderer's Proposal.

Incorporation shall be made directly so that no reference to other documents, such as Tenderer Proposal, correspondence, or unpublished documents, is necessary to comprehend the Contract Documents.

All changes incorporated into the Technical Package shall be supported by evidence of the Originating Department's Director approval and submitted to the Contracts Management Department under the cover of a "Requisition for Award".

6.1.2 Contracts Management Department Input

The Contracts Specialist shall concurrently perform the same function as set forth above for the remaining parts of the Contract Documents.

The Contracts Specialist shall incorporate all changes into the Form of Contract and Attachments for the General Conditions, Special Conditions and Price and Payment Provisions.

"All changes" includes those made by Addendum or by negotiation, as well as all relevant data forming parts of the Tenderer proposal, such as the preliminary contract schedule, manpower tabulation, equipment list, pricing data, etc.

Details of budgetary amounts for Cost Reimbursable contracts and breakdowns of lump sum prices shall be shown in Price and Payment Provisions.

Contract Specialist shall check with the Finance Department that the budget value for the Award is still valid and obtain approval from the Finance Department that the Award may still proceed based on approved funding.

6.2 Requisition for Award

Within one week of approval of the Letter of Recommendation, the Originating Department will transmit to the Contracts Management Department Manager one copy of Specifications and Drawings Attachments, in Arabic and English, in final form ready for incorporation into the Contract Documents. This copy shall be identical to the Specifications and Drawings Attachments approved in the Draft Contract and be transmitted under cover of a "Requisition to Award".

6.3 Conforming Contract Documents

Within one week of the approval of the Draft Contract, the Contracts Specialist shall have the balance of the Contract Documents in final form.



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6.4 Changes to the Draft Documents

If, for any reason, any change in content is made between the Draft Contract Documents are prepared and the final version; the change shall be clearly identified and explained by the person initiating the change.

6.5 Translation of the Documents

The Contracts Specialist shall arrange for the translation of the requisite portions of the Contract Documents and other associated documents.

Two copies of the complete translated contract shall, if required, be sent for approval to the Ministry of Finance, which has up to two weeks to approve and/or comment.

6.6 Signatory to the Contract

The signatory of the Contract for the Entity shall be in accordance with the Governance Policy for the Entity. The signatory of the Contract for the Tenderer shall conform to the requirements in section 6.10 hereof.

6.7 Original Documents for Execution

The Contracts Specialist shall arrange for printing two original copies of the Contract for execution. These two copies must not contain pages with corrections (i.e. whiteout / tip-x, correction tape, etc.) or blank spaces within the text

6.8 Initializing of Original Documents

The Contracts Specialist shall initial in blue ink the lower right hand corners of each page of the copies that are to become the Executed Documents (**Attachment (1)**), and shall have the Contractor similarly initial each page in the lower left-hand corner.

6.9 Summary Letter

A covering letter shall accompany the Contract for execution.

The letter will summarize the points that were subject to negotiation, as required by the Letter of Recommendation for Award, as well as the results of the negotiations with respect to these points.

The letter will provide the Entity with a summary of what was achieved during negotiations. Any negotiations authorized by the Entity involving pricing, such as balancing the Tender, quantity changes or scope changes shall be specifically addressed in the letter such that an audit trail exists.

Any differences between what was authorized and what was achieved during negotiations should be highlighted. This covering letter will be addressed to the Director of Contracts Management Department and will be over the signature of the Contracts Management Department Manager.

6.10 Execution of the Contract by the Contractor (2nd Party)

If the Entity executes the Agreement without the presence of the Contractor, the Contracts Specialist will arrange for the Contractor to come to the Entity to execute both copies of the Contract in blue ink.

Document execution shall be carried out in the presence of an Entity Representative who will ensure that the person signing the Contract is named in the Contract Document and that the contract is executed correctly.



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The Contracts Specialist will provide the Entity evidence of authority for the Contractor representative. Contracts shall be executed by the following representative depending on the type of the Contract:

- Sole Proprietorship or Establishment - owner of the establishment or authorized representative possessing an authenticated Power of Attorney.
- Corporation or Limited Liability Company - authorized representative possessing an authenticated Power of Attorney and authenticated resolution of the board of directors to bind the Corporation.
- Joint Venture -authorized representative of Nominated Joint Venture possessing an authenticated Power of Attorney.
- Association - the authorized representative of each company of the Association, each possessing an authenticated Power of Attorney from the respective company.

If the person signing or initialing the Contract for the Contractor is not the person named in the Contract Documents, the signatory shall present to the Contracts Specialist, in addition to evidence of his identity, an authenticated Power of Attorney.

6.11 Execution of the Contract by the Entity

The Entity will execute the Contract Documents after the Contractor has executed, or will request the Contracts Specialist to arrange for a joint signing ceremony with the Contractor.

Following the Contract execution, the Director of Contracts Management Department shall advise the Originating and Administering Departments of the Contract/Agreement Award.

In normal circumstances, this letter will suffice to convey to the Finance Department that the checks held by them as fee for the purchase of Tender Document can be credited to the Entity's account.

6.12 Notice to Proceed Preparation

The Notice to Proceed (NTP) will be issued by the Administering Department following their receipt of the fully executed Contract Document.

The Notice to Proceed may be issued by the Contracts Management Department if required by schedule and with the approval of the Administering Department Director. Director of the Contracts Management Department will issue the Notice to Proceed upon execution of the Contract by both the Entity and the Contractor.

Prior to transmitting the Contract to the Entity for execution, the Contracts Specialist shall register the Contract with the Project Controls Department and/or the Finance and Budget Department responsible for maintaining the Project Commitment Register.

6.13 Distribution and Storage of Executed Contract

Upon execution of the Contract Documents, the Contracts Specialist shall arrange for the printing and distribution of copies of the Contract Documents. Prior to distribution, each conformed copy shall be stamped on the face of each volume; the Contracts Specialist shall initial besides the stamping of each copy. No other distribution can be made unless directed by the Head of the Entity.

The Contracts Specialist shall prepare the "Letter of Regret", in both Arabic and English languages, for each in-Kingdom and Out-of-Kingdom Tenderers (**attachment (2)**).

The Contracts Management Department shall mail the "Letter of Regret" to the unsuccessful Tenderers immediately upon signature by the Director.



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6.14 Proposal Security and Return of Tender Documents

The proposal security shall not be mailed with the "Letter of Regret". The Tenderer shall come to the Entity's Office and sign a receipt for the security in exchange for returning the Entity's Tender Documents. The Tender Documents will be destroyed after return.

6.15 Input to Project Controls Cost Database

After execution of the Contract Documents, the Contracts Specialist will forward one copy of all Tender tabulations for the Contract to the Director of Project Controls and/or Finance as required to input the cost and pricing data into the Entity historical cost database.

The Tender tabulation shall be transmitted in a sealed envelope identified as CONFIDENTIAL

6.16 Guarantees

The Administering Department is responsible for obtaining the Performance Guarantee from the Contractor immediately following Contract Execution.

Upon receipt of the satisfactory guarantee, the Administering Department shall notify the Contracts Specialist who will arrange for the Proposal Security of the successful Tenderer to be returned to the Tenderer.

6.17 Canceled or Re-Tender Invitations - Tender Fees

If the award of a contract has been canceled or directions received for a re-tender, the Director of Finance Department is to be advised by memo on specific directions regarding disposition of the checks held by the Finance Department.

The Contracts Management Department Manager shall recommend to the Director of the Contracts Management Department the course of action for refund of checks or otherwise in line with Saudi Tender Regulations, and obtain an approval of action prior to writing to the Finance Department. If the Entity cancels the Proposal Invitation prior to the Tender Opening date, then Tenderers shall receive a refund of their checks on application.

If the Proposal Invitation is canceled after receipt of Tenders, then each case is to be treated individually. The Finance Department will be advised by the Contracts Management Department which Tenderer is to receive a refund and which is not.

After Tenderers have been advised that the Contract is canceled, the Contracts Management Department shall, in consultation with the Finance Department, fix a date for release of the refund checks.

Only those Tenderers who are approved to receive a refund and who submit an application for refund will receive a check. Prior to collection of the check, Tenderers must return the Tender documents to the Contracts Management Department and obtain a receipt.

Tenderers will receive their check from Finance Department.

7.0 ATTACHMENTS

1. EPM-KD0-TP-000025 - Executed Contract Memorandum Template
2. EPM-KD0-TP-000028 - Unsuccessful Tender Template



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Attachment 1 - EPM-KD0-TP-000025 - Executed Contract Memorandum Template

EXECUTED CONTRACT MEMORANDUM

To: Entity
Project Director
Engineering Manager
Construction Manager
Contracts Management Department Director
Project Controls Manager
Quality Assurance Manager
Health, Security, Safety and Environmental Manager

Date:

Contract Number	[Insert Contract Number]
Contract Title	[Insert Contract Title]
Contractor	[Insert name of successful Tenderer]

This is to inform you that the subject Contract Document has been fully executed and that a Notice to Proceed was issued to the Contractor on this date.

An original of the Contract Document has already been provided to the Contractor and Document Control has been instructed to issue to your respective departments or to you personally, a copy of the Notice to Proceed and the Conformed Executed Contract.

Please be reminded that the Contractor is required to submit the following documents prior to mobilization to the Jobsite:

- Performance Guarantee
- Insurance Certificates

Moreover, the Jobsite Rules previously issued to the Tenderers must be updated by Construction if required, and issued to the Contractor.

We look forward to the successful execution of the Works with your full participation and support.

Yours faithfully,

Contracts Management Department Manager: