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Tender Evaluation and Negotiation Procedure



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Tender Evaluation and Negotiation Procedure

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Tender Evaluation and Negotiation Procedure

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Tender Evaluation and Negotiation Procedure

1.0 PURPOSE

The purpose of this procedure is to define the responsibilities for the evaluation and negotiation with Tenderers following the opening and receipt of the Tender Submissions.

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.
Commercial Evaluation	The evaluation of tenderer Proposal in accordance with established Evaluation Criteria.
Construction Contractor	The Main or Principal Contractor responsible for undertaking the Construction Works on the Project. Individual(s) or firm(s) engaged in the construction of buildings, either residences or commercial structures, as well as construction activities such as paving, highway construction, utility construction and landscape installation.
Entity	A Saudi Government organization which is responsible for the delivery of government funded infrastructure construction projects.
Evaluation Criteria	Tender evaluation standards set by the Tender Package Team at the time of issuance of the ITT Documents.
Technical Evaluation Team	Group representative of the participating departments formed by bid examination committee for evaluating a specific Tender either technical evaluation team or commercial evaluation team.
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.
Letter of Recommendation for Award	The letter prepared by the Examination Committee and endorsed by the Contracts Management Department Manager based on the Tender evaluation performed by the Tender Evaluation Team and submitted to the Entity's Authorized Representative setting forth the recommendation to the Entity for the award of the subject.
Non-Responsive Proposal	A Tender which lacks a substantial portion of the information requested by the Tender Documents, whereby evaluation, according to the established Evaluation Criteria, leads to the conclusion that the Tender does not meet the requirements of the ITT.



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Pricing Evaluation	The evaluation of the pricing structure of the proposals, consisting of a tabulation of Tender Prices. For unit price and lump sum contracts, the evaluation will include corrections of arithmetical errors and adjustments to bring the Tenders into conformance with the Tender Documents.
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	Are Authority imposed requirements, which specifies product, process or service characteristics, including the applicable administrative provision, with which compliance is mandatory, such as building codes.
Requisition	Requisition for Tendering.
Services	The conductors and equipment for delivering electric energy from the serving utility to the wiring system of the premises served. Also referred to as "Supply Intake" or "Main Incomer".
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.
TEC	Tender Examination Committee
TET	Technical Evaluation Team
CET	Commercial Evaluation Team

4.0 REFERENCES

Chapter Five (5) of the implementation laws

5.0 ROLES & RESPONSIBILITIES

The following defines the individual roles and responsibilities associated with the Evaluation and Negotiation of Tenders:

Individual	Role
Contracts Management Manager	Endorses the completed Evaluation and recommendation to Short List and/or Award to a selected Tenderer(s).
Contracts Specialist	Oversees and leads the evaluations process, performs the commercial evaluations and acts as single point of contact between the Evaluation Team in relation to clarifications, negotiations and discussions with the Tenderers.



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Evaluation Team	Performs the Technical and Commercial Evaluation in accordance with the approved Evaluation Criteria.
TET	Setup the technical evaluation criteria and evaluate the technical proposal accordingly.
CET	Setup the weight for the commercial evaluation criteria and evaluate the commercial proposal and develop letter of recommendation for award.
TEC	Approves or rejects the recommendation of the Evaluation Team to short list and negotiate including final concurrence with the completed Evaluation and recommendation of Tenderer for the award.

6.0 PROCESS

The following outlines the requirements for the evaluation of Tenders and Negotiations with Tenderers to maintain a consistent and ethical basis for the selection and recommendation of an award.

6.1 The formation of the Evaluation team

6.1.1 Technical Evaluation Team (TET)

The TEC shall form a team to evaluate any type of contract that may fall under the EPMO; as following the Team Leader (Contracts Specialist) from Contracts Management Department, a representative from the Originating Department and a representative from the Construction Department.

Other members may include one or more representatives from the Originating and Construction Departments, as required, to assist in the evaluation and include but not limited to representatives from, Health & Safety, Quality and Project Controls, etc.

6.1.2 Commercial evaluation team

Exactly as specified in the Law including the contract specialist who's handling the evaluated package and exclude/; the technical expert member.

6.2 Evaluation Criteria

The Evaluation Team Members shall set objective criteria against each and every Tender Evaluation Form included in the Invitation to Tender documents (ITT) Documents that is tailored for the specific scope of the ITT Documents and each criteria shall be a measurable assessment upon which to differentiate the acceptability or otherwise of the Tenderers' proposals for the Works.

6.3 Evaluation Team

Each Evaluation Team member (TET or CET) shall be notified of his selection by his Department Director. The Department Director shall ensure that the Team member has access to and reads the following documents prior to receipt of tenders:

- The Tender Documents
- The Technical Evaluation Criteria for TET and CET.



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- The Commercial Evaluation Criteria for CET only.
- This procedure and other related documents

Any question the Evaluation Team member may have relating to the above noted documents, or to his selection, shall be resolved prior to the receipt of proposals.

All members shall be required to give priority to the evaluation over all other work; in addition, and, if the complexity of the evaluation demands, members shall be released by their respective departments from all other duties until completion of the evaluation.

6.4 Changes in the Evaluation Team

A Team Member will be excused from participating in the evaluation if he is unable to participate due to an authorized absence (e.g. vacation or sickness). This shall be recorded on the relevant signature pages of the recommendation.

An alternative Team Member may be utilized once a nomination is submitted to the TEC from the nominating Department's Director as applicable with reasons stated.

6.5 Evaluation Room / Security of Documents

There should be strict confidentiality of proposals, and of any information received from Tenderers in relation thereto, shall be observed throughout the Proposal Evaluation Process. No proposal, or any part of a proposal, shall be passed to anyone outside the Evaluation Team without the prior approval of the TEC

6.6 Confidentiality

All evaluators will be required to sign the Non-Disclosure Agreement relative to the Tender Submissions and the Evaluation Process and adhere to the requirements of that Non-Disclosure Agreement by maintaining the confidentiality necessary to ensure that the evaluation is performed ethically and with due respect to individual Tenderers' confidential submissions.

6.7 Tender Submission Compliance Check

The Tender Opening Committee (TOC) shall review the Tender submission for compliance to validate that the required submittals are submitted and included in the Tenderers Submission (**Attachment 1**).

If a Tenderer has not submitted a form for evaluation purposes, the TOC shall notify the TEC in order to determine whether the Tenderer is provided 24 hours to submit the missing form, or reject the Tender due to non-compliance.

If a Tender form has been identified as a Key Form in the Evaluation Criteria, and the Tenderer has not submitted such form, the TOC, shall reject the Tender to avoid any concerns over unethical treatment or favoritism of a Tenderer. Reasons for not rejecting shall be recorded in the Letter of Recommendation by the TOC.

6.8 Initial Evaluation of Tenders

Following the Tender Opening, the TEC shall convene the initial meeting of the Evaluation Team, at which each team member shall sign a Non-Disclosure Statement.

Subsequent to signing the Non-Disclosure Statement, the Team TEC shall distribute to each full-time team member a copy of the Tenders received for each Tenderer and a copy of the Tender Opening Form (showing the names of the Tenderers).

The TEC shall then review with the Evaluation Team the schedule for completion of the Initial Evaluation, the Detailed Evaluation and the Letter of Recommendation for Award (the schedule shall be consistent with the



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Tender Schedule Report (TSR)). Each Team member must clearly understand their part of the evaluation to perform as identified in the Evaluation Criteria, and the time in which he shall perform it.

The TEC shall emphasize at this meeting that the Initial Evaluation shall be performed on the Tenders as received.

6.9 Scope of Initial Evaluation for Short Listing

The Evaluation Team shall perform a preliminary evaluation of each Tender to determine:

1. Completeness of the Tender as required by the Tender Documents. Deficiencies in the commercial aspects, such as lack of Tender security, unsigned Tender, no acknowledgment of Addenda, missing Tender forms, etc., shall be noted. Major deficiencies in the required technical information, as required by the Evaluation Criteria, shall be identified.
2. Evaluation Team will perform initial assessment on the Technical Criteria that is mandated as a PASS/FAIL based solely on the Tender Submission. Any Tenderer that is identified as non-responsive or does not meet the requirements of the Criteria to obtain a "PASS" score in the Initial Technical Evaluation shall be identified for exclusion from further evaluation.
3. Arithmetic accuracy of the pricing of all the Tenders at the same level of pricing detail as the Form of Tender. Prices for each Tenderer shall be tabulated for the Initial Evaluation exactly as Tender with no adjustments for omissions or arithmetic errors. The Initial Evaluation will then consider the following components of the Initial Commercial Evaluation:

The Contracts Specialist shall tabulate the adjustments required for the following:

- (i) Arithmetical errors in multiplication of units and rates.
- (ii) Quantity corrections between those quantities in the Tenderer's submission and the quantities that were included in the ITT Documents or latest Addendum
- (iii) Excluded or Omitted Pricing shall be evaluated on the basis of the average price of the other Tenderers for that Pay Item and that average price used as the basis of calculating the Initial Evaluation for the Excluded or Omitted Pricing.
- (iv) Items in the pricing that stated "included" shall, for the purposes of the Initial Commercial Evaluation, remain as submitted by the Tenderer as these are deemed to be included within the other pay items so not initially subject to an adjustment in the Tendered Prices

The summation of adjustments listed in items (i) to (iii) shall be recorded in a separate column or worksheet relative to each Tenderer's Tender to provide the Initial Evaluated Pricing.

The Contracts Specialist shall also perform a preliminary evaluation of the pricing to identify any particular pay items where a Tenderer's pricing individual unit rates are considered outside of a reasonable deviation of the other Tenderers to identify potential price loading of rates. These potential "loaded" prices shall be tabulated for further negotiation if the Tenderer is short listed based on the Initial Evaluation.

4. Verification of the proper category and classification according to the Ministry of Municipal and Rural Affairs, if such classification is specified in the documents.

6.10 Recommendation to Short List for Detailed Evaluation

The Evaluation Team will select, where possible, a minimum of the three (3) lowest priced Initial Commercially Evaluated Tenders that meet the minimum technical requirements including PASS/FAIL on the Technical Criteria and shortlist them for the Evaluation Team to undertake the Detailed Commercial and Technical Evaluation.

The Contracts Specialist shall prepare the recommendation to the Tender Examination Committee for approval to enter into detailed Evaluation. The Recommendation shall address the following:

1. List of all Tenders Received (unevaluated pricing as per Tender Opening), ranked from lowest to highest



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2. The amended Tender pricing, ranked from lowest to highest
3. The Initial Technical Evaluation clearly stating those Tenderers that have PASS or FAIL on the mandated categories
4. Recommendation of the three (3) lowest priced Shortlisted Tenderers that achieved PASS in the mandated categories.

Upon approval by the Tender Examination Committee of the Shortlisted Tenderers, the Contracts Specialist shall notify the Evaluation Team to commence the detailed evaluation of the Short Listed Tenderers.

In situations where the number of short listed Tenderers is less than three (3), the Tender Examination Committee in considering the Project priorities and responsiveness of the Tenderers may elect to proceed with less than three (3) into the Detailed Evaluations. This decision shall be identified as part of the approval to Short List.

Those Tenderers that were not short-listed shall not be advised of the non-selection until such time **as the Contract is Awarded**. The purpose of this delay in notification is to protect the Entity in the event a Short Listed Tenderer withdraws from the Tender process or the Detailed Examination subsequently reveals that the Tenderer does not meet the requirements of the Award. As such, the next lowest Tenderer that met the initial assessment on the mandated categories is invited to Detailed Evaluations.

6.11 Detailed Evaluation

The Evaluation Team shall prepare its detailed Technical, Commercial and Pricing evaluations using the Tabulation of Proposals Evaluation and the pre-established Evaluation Criteria in accordance to this Procedure.

6.11.1 Additional Resources to Support

If, during the preparation of the Detailed Evaluation, any team member determines that assistance from any project person outside of the Evaluation Team is needed to assist in any portion of the evaluation, the member shall inform the Team Leader, who in turn will obtain the TEC approval to obtain such assistance.

The TEC, if approved, will request the appropriate Department to provide the assistance of the seconded member and shall ensure that the member is fully informed of the need for confidentiality of the information both provided to that member and given by the member to the team. The seconded member access to the proposal shall be limited strictly to areas requiring their assistance. The member's name will be recorded as a participant in the evaluation.

6.11.2 Cost Reimbursable Support

For Cost Recoverable Contracts, the CET Leader may obtain assistance from the Finance and Budget Department representatives for a review of the pricing evaluation, including a review of the elements of the fixed rate and the fee.

However, for the purpose of evaluation, the fixed rate or fee percentages quoted shall not be changed in performing the price evaluation. The work effort will be leveled to the Engineer Estimate. The leveling will be made only to the man-hours and shall be performed on all Tenders received.

6.11.3 Draft of the Detailed Evaluations

The draft evaluations, or sections of evaluations prepared by the individual members, shall be reviewed by the full team members for completeness, consistency, accuracy and compatibility. The work of any one team member shall be checked in detail by at least one other member, particularly where computations are involved.

Each of the full team members shall draw on and coordinate the efforts of the other members and seconded members in the evaluation of the individual criteria.



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6.11.4 Evaluation Rating

Each Evaluation Criterion will be rated by the Evaluation Team as either S (Satisfactory), UN (Unsatisfactory but Negotiable), or U (Unsatisfactory) in accordance with the Proposal Evaluation Criteria. The rating for each criterion will be entered into the summary of the Technical and Commercial Tender Tabulations for each of the ITT Tender Forms.

Following the rating of each individual criterion, an overall rating for each proposal will be determined based on the following parameters:

- U (Unsatisfactory) - If a key criterion marked (K) in the evaluation criterion is rated U; or If the proposal contains more than 60% of criteria rated UN or U.
- S (Satisfactory) - If the proposal is not otherwise rated U. (A proposal rated S and containing one or more U ratings in non-key categories will be specifically mentioned in the Letter of Recommendation for Award if that proposal is recommended for award).

Regardless of the overall rating, generally the recommendation will be to negotiate with the Tenderer which submitted the lowest priced proposal as the possibility exists that the Tenderer's proposal could, through negotiation, be brought up to a Satisfactory rating.

6.11.5 Evaluation Teams Responsibility

The full team members from the Originating Department shall have responsibility for the preparation of the final technical evaluation and the Team Leader from CET shall have responsibility for the preparation of the final commercial and pricing evaluations.

6.11.6 Tender Reconciliations

The Engineer Estimate requires reconciliation to the recommended Tender if it varies by +/-30% from the lowest Tender.

If a reconciliation is deemed necessary after the Evaluation Team selects the recommended Tenderer, the Evaluation Team Leader will request the reconciliation from Finance and Budgeting and formally transmit a copy of the signed Tender Tabulation.

Finance and Budgeting will produce a reconciliation working from the completed Tender tabulation and a final reconciliation, if necessary, based on detailed cost input received from the Tenderer during negotiations.

Reconciliation findings will be included in the Letter of Recommendation.

6.11.7 Scope Changes

Any changes to the scope of work occurring after the closing of Tenders shall not be considered in the evaluation and no adjustment shall be made to the evaluations to reflect any such change.

6.11.8 Normalization of Pricing

Errors or omissions in the pricing that were identified during the preliminary evaluation shall be reviewed with the Tenderer and corrected so as to ensure that all Tenderers have priced the same scope and quantities as required in the ITT Documents.

Any pricing that is identified as being "loaded" or is out of range with the other pricing received on a line item shall be identified and discussed with the Tenderer to normalize the pricing for consistency across the Tenders and mitigate any price loading or risk of undue price variance in relation to potential Changes or Variations.



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Following normalization of the pricing, the amended price shall be shared with the Tenderer to obtain their agreement that the price as normalized represents the agreed final Tender price of the Tenderer.

If a Tenderer fails to accept a correction in the pricing, or to respond with pricing of pay items as per the ITT Document and/or has excluded pay items, then the CET may mark the Tenderer as “Unsatisfactory”. If the exclusions have been priced by the other Tenderers, the CET shall use the highest of the other Tenderers prices for that excluded pay item as the rate for normalization and include this in the calculation for the Normalized Price.

6.11.9 Exceptions and Deviations

The CET shall tabulate any deviations or exceptions to the ITT Documents for review and approval by the TEC and supported by Legal and other departments as necessitated.

Deviations to the Technical Specifications, Scope or Materials shall be issued to the Originating Department for agreement.

Deviations to the Terms and Conditions and Commercial Sections shall be reviewed by the Contracts Specialist with support from the Contracts Manager and Legal / Finance as required.

6.11.10 Clarifications for Tenderers

Any clarifications required of the Tender submissions shall be tabulated by the Contract Specialist and the Contract Specialist should be assigned by TEC as only point of contact to issue such clarifications and receive responses from the Tenderers (**Attachment 2**).

If a Tenderer is non-responsive to requests for clarifications, the Contract Specialist and the Evaluation Team shall reach a majority agreement that the Tenderer be categorized as “non-responsive” and a recommendation will be made to the Tender Evaluation Committee to exclude the Tenderer from further evaluation and consideration.

All clarifications shall be recorded and facilitated between the Tenderer and the Entity in a formal Clarification Meeting shall be recorded in official Minutes of Meetings.

6.12 Negotiations with Tenderers

Following the Detailed Evaluation, the Evaluation Team shall prepare a list of issues, or pending clarifications, both from the Technical and Commercial perspective that require resolution with the Tenderer prior to finalizing the Evaluation.

Each item shall be reviewed with the Tenderer to improve the responsiveness and/or acceptability of the Tenders submission.

Those items that are negotiated to an acceptable level shall be finalized in the evaluation as “Satisfactory”.

The Negotiations shall cover any concerns arising from the Technical and Commercial Submissions.

The Summary of the Negotiations shall be incorporated into the Recommendation to Award.

6.13 Conclusion of the Detailed Evaluation and Negotiations

Each sheet of the Technical, Commercial and Pricing Evaluations in their final form shall be signed and dated by each full team member. Part-time or seconded team members shall sign and date the sheets of the evaluation in which they participated

In Cost Reimbursable Evaluations the Letter of Recommendation must clearly differentiate whether Tenders were requested on cost reimbursable or unit rate for labor. Any unusually high or low labor rates, fixed rates, fees, etc., shall be pointed out in the Letter of Recommendation.



7.0 ATTACHMENTS

1. EPM-KD0-TP-000021 - Tender Submission Compliance Checklist
2. EPM-KD0-TP-000022 - Post Tender Clarifications Template



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Attachment 1 - EPM-KD0-TP-000021 - Tender Submission Compliance Checklist

TENDER SUBMISSION COMPLIANCE CHECKLIST				
ITT Document No: <<INSERT DOCUMENT NUMBER>>		Tenderer's Name: <<INSERT COMPANY NAME>>		
ITT Title <INSERT TITLE>>		Tenderer's Representative: <<INSERT NAME>>		
Documents	Key Criteria	Included		Evaluation Section
		Yes	No	
General Company Information				
Tender Bond / Security	K			Commercial
Signatory Authorization (If required)				Commercial
Valid Commercial Registration Certificate	K			Commercial
Power of Attorney (If required)				Commercial
Others (Add as required (i.e. GOSI)	K			Commercial
PART 4 COMMERCIAL SUBMISSIONS				
FORM A Schedule of Prices / Bill of Quantities (UR / LS)	K			Commercial
FORM B Method of Measurement				Commercial
FORM C Rates for Changes				Commercial
FORM D Design Execution Plan				Technical
FORM D-1 BIM Project Delivery Capability				Technical
FORM E Construction Plant & Equipment				Technical
FORM F Subcontractors and Supply Chain				Technical
FORM F-1 Subcontractor and Supplier Experience				Technical
FORM G Schedule	K			Technical
FORM H Personnel Tabulation				Technical
FORM J Saudization Program				Technical
FORM K Project Organization and Work Plan				Technical
FORM L Safety Program	K			Technical
FORM L-1 Safety & Health History	K			Technical
FORM M Resumes of Key Personnel				Technical
FORM N Quality Program				Technical
FORM O Technical Data				Technical
FORM P SPARE				



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TENDER SUBMISSION COMPLIANCE CHECKLIST				
ITT Document No: <<INSERT DOCUMENT NUMBER>>		Tenderer's Name: <<INSERT COMPANY NAME>>		
ITT Title <INSERT TITLE>>		Tenderer's Representative: <<INSERT NAME>>		
Documents	Key Criteria	Included		Evaluation Section
		Yes	No	
FORM Q Miscellaneous Information				Technical
FORM R Workers Welfare				Technical
FORM S Tenderer Company Information				Commercial
FORM T Tenderer Financials				Commercial
FORM U Environmental Compliance				Technical
FORM V Estimated Payment Schedule				Commercial
FORM W Importation and Materials Management Plan				Technical
FORM X Alternative Material and Equipment				Commercial / Technical
FORM Y Exceptions and Deviations				Commercial / Technical
FORM Z SPARE				

Recommendation:

Contracts Specialist to complete below table and submit for the approval of the Contract Management Department Manager and/or Director of Contracts Management Department and the Tender Opening Committee as necessary:

Fully Complete Submission	Proceed with Issuance to the Evaluation Team	<input type="checkbox"/> YES <input type="checkbox"/> NO
Incomplete Submission	Grant 24 hour period for submission of non-key Forms marked as "No" above, failure to submit by deadline will result in automatic disqualification of Tender	<input type="checkbox"/> YES <input type="checkbox"/> N/A
Incomplete Submission	Grant 12 hour period for submission of key Forms not submitted in original submission, failure to submit by deadline will mean automatic disqualification of Tender	<input type="checkbox"/> YES <input type="checkbox"/> N/A
Incomplete Submission	Reject Tender due to non-submission of Key Criteria or substantially incomplete submissions	<input type="checkbox"/> YES <input type="checkbox"/> N/A

Approved by:

[INSERT NAME] Director of Contracts Management Department

[INSERT NAME] Chairman of Tender Opening Committee



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Attachment 2 - EPM-KD0-TP-000022 - Post Tender Clarifications Template

PROJECT:		[INSERT PROJECT NAME & NUMBER]									
ITT DOCUMENT No.:		[INSERT CONTRACT NUMBER]									
TENDERER NAME:		[INSERT CONTRACTOR]									
POST TENDER CLARIFICATIONS											
Seq Number	Originating Department	Date Received by Contracts	Clarification to Tenderer	Nature of Question (Technical / Commercial)	Responsible Lead	Date issued to Tenderer	Date Response Received	Response	Date issued to Originator for Evaluation	To be incorporated in Final Contract	
										Yes / No	ITT Document Reference
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3											
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5											
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