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PRESIDENCY OF THE REPUBLIC

MINISTRY OF PUBLIC CONTRACTS

PUBLIC CONTRACTS REGULATION GUIDE

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ACRONYMS

1. THE STAKEHOLDERS

ARMP:	Public Contracts Regulatory Board
ACMP:	Authority in charge of Public Contracts
MINMAP:	Ministry of Public Contracts
PO:	Project Owner
DPO:	Delegated Project Owner
MOE:	Project Manager
TB:	Tenders Board
CCCB:	Central Contracts Control Board
SCAO:	Bid Evaluation Sub Committee
IO:	Independent Observer
RCTD:	The Person in Charge of Processing the File
CLSP:	Local Participatory Monitoring Committees
SIGAMP:	Internal Public Contracts Administrative Management Entities
PRC:	Petitions Review Committee
TFP:	Technical and Financial Partner

2. REGULATORY INSTRUMENTS

PCC:	Public Contracts Code
GAC:	General Administrative Clauses

3. TYPES OF PROCEDURES AND CONSULTATION FILES

AO:	Invitation to Tender
RII:	Restricted Invitation to Tender
DTAO:	Model Tender File
TF:	Tender File
DCE:	Consultation File
RQ:	Request for Quotation

4. CONSTITUENT DOCUMENTS OF THE CONSULTATION FILES

AMI:	Call for Expression of Interest
AAO:	Tender Notice
RGAO:	General Regulations of the Invitation to Tender
RPAO:	Special Regulations of the Invitation to Tender
SAC:	Special Administrative Clauses
STC:	Special Technical Clauses
ToR:	Terms of Reference
BPU:	Unit price schedule
CSDP:	Price Sub-detail Framework
CDQE:	Detailed Quantity and Cost Estimate Framework
DQE:	Detailed Quantity and Cost Estimate

5. DOCUMENTS OF THE EXECUTION PHASE

OS:	Administrative Order
OSD:	Administrative Order to Commence
DGD:	General and Final Detailed Account

TABLE OF CONTENT

INTRODUCTION.....	10
SECTION I EXPLOITATION OF THE DOCUMENTATION	11
I. DOCUMENTATION OF THE AWARD PHASE	12
I.1. Pre-qualification.....	12
I.1.1. Regulatory provisions.....	12
I.1.2. Documents to be exploited	13
a. Call for expression of interest (AMI)	13
b. Pre-qualification report.....	14
c. Release to publish the list of candidates selected	14
I.1.3. Information to be extracted	14
I.2. Launch of the consultation	15
I.2.1. Regulatory provisions	15
I.2.2. Documents to be exploited.....	15
a. Tender notice or request for quotation notice.....	15
b. Tender File or Request for Quotation	Erreur ! Signet non défini.
1.2.3 Regulatory provisions.....	16
- a. Letter of invitation to tender.....	18
- b. Tender notice (AAO).....	19
- c. General regulations of the invitation to tender (RGAO).....	19
- d. Special regulations of the invitation to tender (RPAO).....	19
- e. Special Administrative Conditions(SAC)	20
- f. Special Technical Conditions (STC)	21
- g. Terms of Reference (ToR).....	21
- h. Technical proposal	21
- i. Financial proposal	22
- j. Description of the supply.....	22
- k. the unit price price schedule framework (BPU)	22
1. Detailed Quantity and cost Estimate framework (DQE)	23

- m.	Price Sub-detail framework (SDP)	23
- n.	Model forms	23
- o.	Proof of preliminary studies	23
- p.	List of banks and financial institutions authorised to issue bonds	24
- q.	Other documents.....	24
I.2.4.	Information to be extracted	24
a.	From the tender notice.....	24
b.	From the Special Administrative Clauses (SAC).....	24
I.3.	RECEIPT OF OFFERS	25
I.3.1.	Documents to be exploited and information to be extracted.....	25
a.	Offers' Register leaf	25
b.	Tenderers' offers	25
I.4.	Opening of envelopes	25
I.4.1.	Regulatory provisions.....	25
I.4.2.	Documents to be exploited	26
a.	Consultation File	26
b.	Offers' register leaf	27
c.	Offers.....	27
d.	Bids opening report (PV).....	27
e.	Opinion of the Central Contracts Control Board.....	28
f.	No objection of Technical and Financial Partners.....	28
I.4.3.	Information to be extracted	28
a.	From the minutes of the opening of bids.....	28
b.	From the decision establishing the bids evaluation sub-committee (SCAO).....	28
c.	From the offers' register leaf :.....	28
I.5.	Evaluation of offers	29
I.5.1.	Regulatory provisions.....	29
I.5.2.	Documents to be exploited	29
a.	Bids evaluation report	30

b.	Synthesis report	31
c.	Summary note.....	31
d.	Award report (PV).....	31
I.5.3.	Information to extracted	31
a.	Bids evaluation report and summary report	31
b.	Summary note.....	32
c.	Award report (PV).....	32
I.6.	Award.....	32
I.6.1.	Regulatory provisions.....	32
I.6.2.	Documents to be exploited	33
a.	the minutes of the examination of the bids evaluation report.....	333
b.	the negotiation minutes	33
c.	the Opinion of the Central Contracts Control Board.....	33
d.	the Award decision and release of the publication of results	34
I.6.3.	Information to be extracted	35
I.7.	Signing and notification of the contract	35
I.7.1.	Regulatory provisions.....	36
I.7.2.	Documents to be exploited	36
a.	Minutes of the Tenders board on the examination of the draft contract awarded through the mutual agreement procedure or of the draft amendment.....	37
b.	Minutes of the CCCB board on the examination of the draft contract awarded through the mutual agreement procedure or of the draft amendment.....	37
c.	The notified and signed contract.....	37
I.7.3.	Information to be extracted	38
II.	DOCUMENTATION OF THE EXECUTION PHASE.....	38
II.1.	The execution of contracts.....	38
II.1.1.	Regulatory provisions.....	38
II.1.2.	Documents to be exploited	39
a.	Administrative Orders (OS)	39
b.	Signed and notified amendments.....	40

c.	Provisional acceptance minutes.....	40
II.1.3.	Information to be extracted	41
a.	From Administrative Orders (OS) :.....	41
b.	From amendments signed and notified:	41
c.	From provisional acceptance minutes	41
II.2.	Closure of contracts	41
II.2.1.	Regulatory provisions.....	41
II.2.2.	Documents to be exploited	42
a.	Final acceptance minutes	42
b.	Technical validation minutes.....	42
c.	Formal notice.....	42
d.	Deficiency report.....	42
e.	Termination decision	43
II.2.3.	Information to be extracted	43
a.	For the minutes	43
b.	for formal notice	43
c.	for deficiency report	43
d.	for the termination decision.....	43
II.3.	Payment of services	44
II.3.1.	Regulatory provisions.....	44
II.3.2.	Documents to be exploited	44
a.	Start-up advance detailed account or advance on supplies detailed account.....	45
b.	Provisional detailed accounts, invoices and requests for down payment	45
c.	Final detailed account.....	45
d.	General and final detailed account	45
e.	Liquidation detailed account	46
II.3.3.	Information to be extracted	46
III.	THE OTHER DOCUMENTS	47
III.1.	Reports and opinions	47

III.1.1. Regulatory provisions.....	48
III.1.2. Documents to be exploited	48
a. Tenders Boards periodic activity reports.....	48
b. Independent Observers' reports.....	48
c. Central Contracts Control Boards' opinions	48
d. Internal Public Contracts Administrative Management Entities' reports	49
e. Project Managers' reports.....	49
f. Reports from the GDP Participatory Monitoring Committees	49
III.1.3. Information to be extracted	49
a. For the Tenders Board's report.....	50
b. For the Independent Observer's report.....	50
c. For Central Contracts Control Boards' opinions.....	50
d. For Internal Public Contracts Administrative Management Entities' reports	50
e. For Project Managers' reports.....	50
f. For the reports from the GDP Local Participatory Monitoring Committees.....	51
III.2. Decisions and acts	51
III.2.1. Regulatory provisions	51
III.2.2. Documents to be exploited	51
III.2.3. Information to be extracted	52
a. for the contracts award	52
b. for the termination of contracts	52
c. for the cancellation of termination decisions.....	52
d. for the appointment of Boards' Chairpersons and members	52
e. for the establishment of the appointment of Boards' Chairpersons and members	52
SECTION II MANAGEMENT OF COMPLAINTS, PETITIONS AND DISAGREEMENTS ...	53
I. PETITIONS BY BIDDERS	54
I.1. At the pre-qualification phase	54
I.1.1. Conditions for the request for expression of interest.....	54
I.1.2. Pre-qualification criteria.....	55

I.1.3.	Pre-qualification results.....	55
I.2.	Between the publication of tender notice and the opening of envelopes	56
I.2.1.	Failure to make the Tender File available	57
I.2.2.	Failure to publish the tender notice	57
I.2.3.	Relevance of the specifications or technical criteria	58
I.2.4.	Failure to use the model Consultation Files	58
I.2.5.	Conformity of the award method and procedure for the selection of bidders.....	59
I.2.6.	Inconsistency between TF purchase fee, the bid bond and the amount of the project	59
I.2.7.	Indication of trademarks without the word “or equivalent”	59
I.2.8.	Non-compliance with the deadline for the submission of offers	59
I.3.	Petitions at the opening of the offers.....	59
I.3.1.	Receipt of offers	60
I.3.2.	Modalities for the opening of offers	60
I.3.3.	Admissibility and rejection of offers	60
I.3.4.	Minutes of the bids opening session.....	61
I.3.5.	Integrity of offers.....	61
I.4.	Petitions at the evaluation of technical offers.....	61
I.5.	PETITIONS BETWEEN THE PUBLICATION OF RESULTS AND THE NOTIFICATION OF THE CONTRACT.....	62
I.5.1.	Challenging on award decision published by the PO/DPO	62
a.	In the administrative file.....	63
b.	In the technical offer.....	63
c.	In the financial offer	63
d.	In the minutes of the session for the adoption of the bids evaluation report and of the award proposal of the Tenders Board	64
I.5.2.	Non-publication of award results by the PO/DPO	64
I.5.3.	Challenging the unfruitfulness of the consultation decision	64
a.	In the technical offer.....	65
b.	In the financial offer	65
I.5.4.	Non communication of the excerpt of bids evaluation report	65
I.5.5.	Refunding or release of the bid bond	66

I.5.6. Non-subscription of the contract by the successful bidder	66
II. PETITIONS BEFORE THE COMMENCEMENT OF THE SERVICES	67
II.1. During contract execution	67
II.1.1. Approval of execution documents.....	68
II.1.2. Payment of the start-up advance.....	68
II.1.3. Taking into account quantities in the job cost sheets	69
II.1.4. Non-payment of provisional detailed accounts.	70
II.1.5. Price revision or updating.....	70
II.1.6. Acceptance of services	72
II.1.7. Termination of the contract	73
II.2. After contract execution	73
II.2.1. Non-release of the final bond:	73
II.2.2. Non- release the surety bond :	74
II.2.3. Request for arbitration for payment of intersts on overdue payments :	75
II.2.4. Request for the remission of delay penalties	75
II.2.5. Challenging sanctions and requests for the lifting of sanctions	76
III. DISAGREEMENTS.....	76
III.1. Between the Tenders Board and the PO	76
III.2. Between the CCCB and the PO	77
III.3. Between the ITB and a bidder	77
III.4. Between the PRC and the ACMP.....	78
CONCLUSION	80

INTRODUCTION

As part of its tasks, the Agency collects all public contract documentation generated by the award and execution processes and receives copies of reports drafted by some stakeholders in the public contract system.

These documents are systematically used for:

- (i) the extraction of information for feeding the public contract's database;
- (ii) the taking of regulatory acts, in case of malfunctions observed
- (iii) issuing opinions at the request of the stakeholders, and;
- (iv) The production of its periodic reports on the general status of public contacts, on the one hand, and on the efficiency and reliability of the public contracts system, on the other.

The purpose of this guide is to provide Agency staff with useful guidance for the exploitation of that documentation, while recalling the regulatory provisions to which they will have to refer for corrective and didactic measures when they detect malfunctions, as well as the information they will have to extract from it in order to feed the data bank.

It also gives them guidance on how to examine the bidder's petition and requests from the administration's contracting partners, as well as those relating to the handling of disagreements between Project Owners and Tenders Boards to issue relevant opinions.

In this respect, the file processing guide for the staff of the Agency's professional relevant structures consists of two (2) parts.

The first part, which is intended to be practical, deals with the exploitation of documentation, and the second on the management of complaints, petitions, and disagreements.

SECTION I | EXPLOITATION OF DOCUMENTATION

I. DOCUMENTATION OF THE AWARD PHASE

The documents collected by the Agency or transmitted by the stakeholders which are systematically exploited are reference documents generated during the various stages of the award process, namely:

- Prequalification;
- Publication of the Invitation to Tender;
- Opening of bids;
- Bid evaluation;
- Contract award proposals;
- Contract award;
- The signature and notification of contracts;

I.1. PREQUALIFICATION

For intellectual services, specific works or equipment of great importance or complex and supply of material to be manufactured on order and specialized services, **the invitation to tender is restricted** and reserved for candidates selected following a **prequalification** conducted by the PO/DPO which, for this purpose, appoints an ad hoc committee for the examination of applications. (Article 78 (1) and (2) of the PCC).

I.1.1. Regulatory provisions

Prequalification is governed by the provisions of Articles 76 to 78 of the PCC and is carried out following a public call for applications by the insertion in authorized publications of a call for Expression of Interest (AMI) relating to a particular call for tenders or a set of invitations to tender during a period not exceeding six (6) months.

In this respect, and in accordance with the provisions of Article 77 of the PCC, the deadlines for the submission of applications from the date of publication of the call for Expression of Interest are:

- fifteen (15) working days at least and twenty-one (21) days at most for national invitations to tender;
- twenty-one (21) working days at least and twenty-one (21) days at most for international invitations to tender.

These deadlines may be reduced to ten (10) and fifteen (15) working days respectively in case of emergency.

Furthermore, it should be clarified that in accordance with the provisions of Article 78 (3) of the PCC, the PO/DPO may be exempted from prequalification where:

- Intellectual services fall under purchase orders;

- the prequalification was unsuccessful or resulted in fewer than three (3) candidates per lot;
- the contracts award timetable drawn up in accordance with the regulations in force shows that the procedural deadlines do not allow the estimated dates for the start or completion of services to be met;
- the invitation to tender is addressed to service providers selected within the framework of categorization.

I.1.2. Documents to be exploited

During the prequalification phase, following the exploitation of the related documents, the Person in charge of Processing the file (RCTD) may be required, on the one hand, to propose the taking of regulatory act, and, on the other hand, to extract from the documents all the information necessary to feed the database.

The reference documents for this stage are:

- the call for Expression of Interest notice (AMI);
- the report of prequalification;
- the press release publishing the list of candidates retained;.

a. the call for Expression of Interest (AMI)

When exploiting the AMI, the RCTD make sure of:

- the eligibility of the service for the restricted invitation to tender (Article 78 of the PCC);
- the insertion of the AMI in authorized publications, in particular the ARMP public contracts journal in accordance with the regulations in force
- compliance with the deadlines for submitting the above-mentioned applications (Article 77 of the CMP);
- that the public call for applications specifies in an objective and verifiable manner the qualification criteria, in particular the administrative conditions used to justify the legal existence of the candidate and the references in the field concerned (Article 76 [3] of the PCC).

In the event that irregularities or lapses are identified during the aforementioned checks, the RCTD must initiate a letter addressed to the PO/DPO recalling the regulations, in particular the provisions of Articles 76 (2), 76 (3) or 78 of the PCC referred to above, as the case may be, and requiring him to comply with them by the publication of an addendum if necessary.

b. The prequalification report

In the ad hoc committee prequalification report set up for this purpose, the RCTD shall verify that:

- the prequalification process conducted by the PO/DPO resulted in the establishment of a restricted list;
- the shortlist includes a minimum number of three (3) selected candidates; The minimum number of pre-qualified candidates per lot remains set at three (3) in case of allotment.

c. The release publishing the list of candidates selected

The RCTD shall ensure that:

- the shortlist is published before the launch of the restricted invitation to tender (Article 76 (7) of the PCC);
- the list published is in conformity with that contained in the prequalification report.

In the event of shortcoming, the RCTD takes a regulatory act prescribing:

- The completeness of the prequalification report by inserting the shortlist (Article 76 (4) of the PCC);
- The publication of the release publishing the list (Article 76 (5) of the PCC);
- The harmonization of the shortlist published with that contained in the prequalification report;
- The use of the open invitation to tender procedure;
- The use of the open invitation to tender procedures for the lot(s) concerned, where applicable.

I.1.3. Information to be extracted

When using the above-mentioned documents, the RCTD shall extract the following information for the purpose of feeding the data bank.

It includes:

- AMI references (number, subject, date of publication, etc.);
- the deadline for the submission of applications;
- the date of publication of the shortlist;
- the names of the pre-qualified.

I.2. LAUNCH OF THE CONSULTATION

I.2.1. Regulatory provisions

The publication of the invitation to tender (or the Notice of Request for Quotation) marks the launch of the consultation.

This Notice is a constituent part of the consultation file drafted on the basis of the standard tender and quotation request files, as the case may be.

I.2.2. Documents to be exploited

The reference documents for this stage are:

- The tender notice (AAO) and the request for quotation notice (RQ);
- The Tender File (TF) or the request for quotation

a. Tender notice or request for quotation notice

The tender notice (or the Notice of request for quotation) informs potential bidders of the launch of the consultation and includes headings presented in the standard tender documents put into force, the content of which is governed by Article 86 of the PCC.

In this regard, the RCTD shall ensure that:

1. in the case of a restricted invitation to tender, it was preceded by a prequalification procedure following a published Call for Expression of interest not more than 6 months old (Article 76 (1) and (2) of the PCC);
2. it is drafted in English and French (Article 85. (1).a of the PCC) and that the 2 versions comply with those of the Code;
3. the codification of the reference indicated in the model tender file is respected (number, type of Invitation to tender, Project Owner, Tenders Board, year, subject of the consultation) (Article 86 of the Public Contract Code);
4. the source of financing, the period during which the candidates remain committed by their offers and the consistency of the services, the estimated cost of the project, the allotment as well as the maximum number of lots which a bidder may be awarded are specified (Article 86 of the PCC);
5. The place, date and time limit for submission and opening of bids are indicated (Article 86 of the PCC);
6. the time of the submission of the bids is fixed latest one (1) hour before the opening of the offers in accordance with the provisions of Article 91 (5) of the PCC;
7. the period of validity of the bid bond exceeds that of the offers by 30 days (Article 90 (4) of the PCC);
8. the period granted to bidders for the preparation of tenders from the date of publication of the tender notice (compulsory publication in the public

contracts logbook Art. 88 of the PCC) is in accordance with the provisions of Article 89 of the PCC (between 25 and 50 days, which may be reduced to 20 days for smaller scale services, cases of obvious emergency or requests for quotations, and to 90 days for international invitations to tender);

9. the amounts of the tender file purchase fees and the bid bond are in accordance with the provisions of Order 093/CAB/PM of 05/11/2002;
10. the main eliminatory and evaluation criteria are mentioned taking into account the respect of the principle according to which a criterion cannot be both essential and eliminatory (see. standard RPAO);
11. the methods of evaluation and award and the method of selection are in accordance with the provisions of Articles 87 (2) (3), 99 (a) (b) of the PCC;
12. no reference is made to any brand without the mention “or equivalent” Article 56 (2) and (3) of the PCC.

In case of irregularity, the RCTD shall prescribe the publication of an addendum in accordance with the regulatory provisions.

b. The Tender File or the Request for Quotation

The competitive bidding of the Administration’s potential contracting partners is the best way to select candidates for the realization of the various types of services; the mutual agreement procedure is an exceptional procedure where competition is reduced or does not exist, as the case may be.

For the implementation of this competition, the consultation file is the basic tool enshrined in the Public Contracts Code (PCC) through which the Project Owner defines his needs and sets the rules to be respected by the candidates.

To this end, it contains all the information necessary for the preparation, admissibility of tenders, the evaluation criteria and the method of awarding the resulting contract(s), as well as the shape of the document that will constitute the future contract(s).

The tender file consists of three main parts, namely (i) the documents that organize the competition (ii) those that govern the execution (iii) the standard forms and (iv) the annex documents, if any.

I.2.3. Regulatory provisions

The consultation file (Tender File and Request for Quotation) is drafted on the basis of standard files, put into force by orders No. 038/CAB/PM of 15 May 2014 for the invitations to tender and No 223/CAB/PM of 038/CAB/PM of 2 February 2011 to lay down the application modalities for requests for quotation.

Moreover, the use of these DTAO by the PO/DPO is compulsory under the pain of the procedure being null and void in application of Article 2 of the above-mentioned order.

The consultation file is examined by the Tenders Board and by the Central Contracts Control Board, where necessary, before the related notice is signed and published by the Project Owner in the authorized papers, in particular the ARMP's contract logbook (JDM).

At the end of the session during which the consultation file was examined, a report containing the general information on the consultation as well as all the observations of the TB is produced and transmitted to the Agency within a maximum of 72 hours from the end of the deliberations by this body, in accordance with the provisions of Article 19 (1) of the PCC.

For contracts under the jurisdiction of a Central Contracts Control Board, this period is 72 hours in accordance with the provisions of Article 41 of the PCC.

The finalized Tender File, together with the Tender Notice signed by the Project Owner, shall be sent to ARMP within the time limits stipulated in Article 19 (3) of the PCC.

In accordance with the provisions of Article 85 (1) of the PCC, the Tender File (TF) is constituted as follows:

1. The letter of invitation to Tender (for Restricted invitations to tender);
2. the tender notice (AAO) drafted in French and English;
3. the General Regulations of the invitation to tender (RGAO);
4. the Special Regulations of the invitation to tender (RPAO);
5. The Special Administrative Clauses (SAC);
6. The Special Technical Clauses of works contracts (STC);
Terms of Reference (ToR) for non-quantifiable service contracts including intellectual services and insurance contracts, or;
The description of the supply including the list of supplies and technical specifications for supplies and quantifiable services contracts, where applicable;
7. the unit price schedule framework(BPU);
8. The Detailed Quantity and Cost Estimate Framework (DQE);
9. The price sub-detail framework or breakdown of prices, where applicable;
10. The technical proposal for non-quantifiable service contracts, including intellectual services and insurance contracts;
11. The financial proposal for non-quantifiable service contracts, including intellectual services and insurance contracts;
12. The contract model;
13. The standard forms relating to the bid, the bonds and, where applicable, the supplies and their origin;
14. proof of preliminary studies;
15. the list of banks and insurance companies authorized to issue bonds for public contracts;

16. technical documents or any other document deemed necessary by the Project Owner, where applicable.

The consultation files received by the Regulatory Body are processed, and the regulatory acts are either corrective (shortcomings to be taken into account before continuing the procedure or cancellation) or didactic (observations to be taken into account for the future) depending on the stage of the procedure.

The measures to be proposed by the RCTD can be summarized as follows:

1. if shortcomings are identified before the date provided for the opening of bids and the time limit permits, the PO/DPO is requested to correct the shortcomings through an addendum;
2. if the opening of bids is very imminent or very recent, instruct the tenders board to take account of observations that can still be rectified (example. inconsistencies between the tender file documents) during the evaluation of the tenders (copy letter PO) or if it is the SAC which is concerned, instruct the PO to take account of the shortcomings before the contract is signed. For shortcomings already consumed (example: incomplete bank list...), call the attention of the PO or Tenders Board as appropriate for the future;
3. if the opening of bids is effective and the evaluation of bids has been completed, instruct the tenders board with copy to the Project Owner, to take into account the observations in the future for minor shortcomings;
4. in the case of major irregularities (example. inadequacy of the type of services/procedure, restricted invitation to tender (RIT) without prequalification, etc.), propose to MINMAP the cancellation of the procedure (Article 102 (1) of the PCC);
5. if the procedure has reached the award stage, propose to MINMAP the cancellation of the award in accordance with Articles 42 (6) and 190 (1) of the PCC.

In practice, for the detailed exploitation of the tender file constituent documents, the person in charge of processing the file (RCTD) shall ensure that the tender file has been drafted on the basis of the model tender file (DTAO) in force for the type of service.

NB: It is also important to note that there are consultation files for contracts awarded by mutual agreement, the content of which is not yet regulated, and requests for proposals for donor-funded projects, which are based on donors' standard documents.

a. Letter of invitation to tender

The Letter of Invitation to Bid is the document by which the PO/DPO invites pre-qualified applicants to prepare their offers for the restricted invitation to tender.

The RCTD shall ensure that it conforms to the Standard tender file (DTAO) template.

b. Tender Notice (AAO)

The tender notice informs potential bidders of the launch of the consultation and includes headings presented in the standard tender document (DTAO), the content of which is governed by Article 86 of the PCC.

In this regard, the RCTD shall ensure that the tender notice contained in the tender file is consistent in all respects with the published tender file and the tender file model (DTAO).

Otherwise, the RCTD shall urge the PO to harmonize the two documents through an addendum.

c. the General Regulations of the invitation to tender (RGAO)

The RGAO lay down the general conditions for competitive bidding. It is composed of standard articles that cannot be modified.

The RCTD shall therefore ensure that it complies with the RGAO of the standard tender file in force according to the nature of the services concerned.

d. the Special Regulations of the invitation to tender (RPAO)

The RPAO specify some provisions of the RGAO, keeping the same article numbering as that of the RGAO.

Its content is governed by the provisions of Article 87 (1) of the PCC.

When exploiting the RPAO, the RCTD shall ensure that:

1. the articles of the RGAO and the RPAO are consistent with each other;
2. the consistency between the information in this document and the information of the same nature appearing in other documents of the consultation file (AAO, RPAO, CCAP evaluation grid, etc.);
3. the presentation of the constitution of the offers according to the three existing volumes (technical, administrative and financial files). Indeed, it shall be checked that it is systematically indicated the file in which each document required of the bidder shall be inserted;
4. the presence of the conditions of admissibility and rejection of tenders as well as objective and verifiable evaluation and qualification criteria (nature of the documents requested, period of validity required, taking into account of the provisions of Article 92 (9) of the PCC concerning the rejection of offers, etc.);

5. the indication of the minimum technical threshold required;
6. the consistency between the evaluation and award methods chosen with the type of services concerned (binary for works contracts, supply and quantifiable services contracts or by marks for non-quantifiable services including intellectual services (Article 87 (2) and (3) of the Public Contracts Code);
7. the mentioning of the modalities of the application of the national preference, if any;
8. taking into account, where applicable, the references of the promoter or technical official of a newly created national SME (Article 97 of the PCC);
9. the breakdown of criteria into essential criteria and eliminatory criteria, without either being both essential and eliminatory;
10. the objectivity of all criteria so as not to undermine the principles of fairness.

e. The Special Administrative Clauses (SAC)

The SAC sets the special conditions that will govern the execution of the contract. It stems from the various General Administrative Clauses applicable by type of services and put into force by Order No. 033/CAB/PM of 13 February 2007.

During its exploitation, the RCTD shall generally ensure that the headings of the SAC comply with those of the DTAO concerned and comply with the regulatory provisions.

Specifically, but not exhaustively, the RCTD shall verify that:

1. all the regulatory instruments referred to in the SAC are still in force;
2. the percentage of guarantees and bonds complies with the regulations (*retention bond < or equal to 10%, final bond between 2 and 5% see. Article 138 (1) and (2) of the Public Contracts Code*);
3. the proportion of the start-up advance provided for is compliant according to the type of services and that it is also planned to be 100% guaranteed (*Article 160 (1) to (5) of the Public Contracts Code*);
4. the retention bond is not required in the case of intellectual services (*Article 138 (3) of the Public Contracts Code*);
5. the deadline for constituting the final bond (*20 calendar days following notification of the contract, etc.*), its period of validity (*cover up to provisional acceptance*) and that of the retention bond (*cover the guarantee or maintenance period indicated in the contract up to final acceptance*) comply with the provisions of Article 139 of the Public Contracts Code;
6. the modalities of variation (revision or update) of prices comply with the provisions of Articles 146 and 147 of the Public Contracts Code;
7. the modalities of subcontracting or co-contracting (*percentage, scope, responsibility, etc.*) of stakeholders when provided for comply with the provisions of Articles 131 to 136 of the Public Contracts Code;

8. the amount of the works under State supervision, if any, will not exceed 2% of the amount all taxes inclusive of the contract (Article 148 of the Public Contracts Code);
9. the modalities for acceptance of services and for the termination of contracts comply with the instruments in force;
10. for study and audit contracts, acceptance is carried out by a Follow-up and Technical Validation Committee (Article 156 (3) of the Public Contracts Code).

f. The Special Technical Clauses (STC)

The STC set the technical characteristics of the services to be executed for work contracts.

During its exploitation, the RCTD shall ensure of its compliance with the requirements of the DTAO works.

He shall also check that there is no reference to trademarks without mentioning “*or equivalent*”

g. Terms of Reference (ToR)

The Terms of Reference for non-quantifiable service contracts, including intellectual services and health insurance contracts, are prepared according to an outline with well-specified parts and set out in the relevant DTAO.

The RCTD shall ensure that the ToR of the exploited Tender File comply with this and that there is no contradiction with other documents containing information of the same nature (for example, regarding the composition of the mission team which is also found in the RPAO).

Similarly, he shall also make sure of the existence and compliance of the Monitoring and Technical Validation Committee.

h. The technical proposal

The technical proposal for non-quantifiable services, including intellectual services and health insurance contracts, consists of several tables and forms to be completed by the applicant, namely:

- Submission letter
- the candidate's references;
- the candidate's observations and suggestions on the ToR;
- the description of the proposed methodology and work plan for the mission;
- the composition of the team and the responsibilities of the members;

- CV templates and work schedule for specialized staff and overall calendar of activities.

The RCTD shall ensure that the Tender File contains all these elements and that the information required is consistent with the relevant DTAO.

i. The financial proposal

The financial proposal for non-quantifiable service contracts, including intellectual services and insurance contracts comprises:

- The submission letter of the financial proposal
- the summary statement of costs and their breakdown by activity, the unit cost of key staff as well as that of execution staff,
- the breakdown of remuneration and repayable expenses by activity,
- miscellaneous costs for contracts with payment by unit price, the framework of the unit price schedule,
- the detailed estimate framework and the framework of the sub-detail of unit prices.

The RCTD shall ensure that the Tender File contains all these elements and that the information required is consistent with the relevant DTAO.

j. The Description of the Supply

The description of the quantifiable supply or services shall provide details relating to the specific characteristics of the supplies or services to be delivered.

The RCTD shall make sure of its compliance with the requirements of the related note inserted in the DTAO supplies by verifying that all the required details are effectively present as well as the inserted planned tables to be filled by the candidates.

k. The unit price schedule framework (BPU)

The framework of the BPU defines the different prices that remunerate the services.

It is in the form of a table with 05 columns; that is. the first which provides information on the codes and the price series, the second which concerns the definition of each price, the third specifies the unit of measurement while the fourth column displays the amount in words. The fifth column is reserved for the amount in figures and is likely to be broken down into as many columns as monetary units of payment.

The RCTD shall make sure that it is consistent with the DTAO model.

l. The Detailed Quantity and Cost Estimate Schedule (DQE)

The DQE framework is the room in which quantities are assigned at the prices previously defined in the BPU. In general, it has columns indicating respectively the price codes and series, the units of measurement, the designation of unit prices according to the BPU, the subtotal by category and taxes.

The RCTD shall make sure that the model of this table indicated in the DTAO is respected and that the quantities are specified by the Project Owner. It shall also make sure that there is a match between the information of the BPU and that of the DQE concerning the defined prices.

m. The price sub-detail framework (SDP)

The SDP framework is the document that breaks down the constituent elements of the different unit prices. It should be exhaustive but the DTAO does not require a precise form with regard to the many software capable of generating it.

The RCTD shall make sure that it is provided for in the TF with the necessary indications where applicable.

n. Model forms

Model forms are an integral part of the DTAO.

They shall be inserted in the Tender File and candidates shall comply with them when drawing up the corresponding administrative documents.

The RCTD shall make sure that the models of all the elements required in the Tender File are annexed to it and comply with the required form (submission letter, bid bond, start-up advance bonds, final bond, planning framework for work contracts, retention bond, etc.).

o. proof of preliminary studies

The justification for the preliminary studies shall be in the form of a document containing a certain amount of information to be completed or elements to be annexed justifying the existence of a preliminary study.

The RCTD shall make sure that these elements are present in the Tender file exploited in accordance with the DTAO or any other document enabling to justify the maturity of the project issued by a competent authority in this regard.

p. The list of banks and financial institutions authorized to issue bonds

The list of banks and financial institutions, including insurance companies, authorized to issue bonds for public contracts is established by decision of the Minister in charge of Finance.

It is inserted in the Tender File and must comply with the most recent one signed by the Minister in charge of Finance.

q. Other documents

Depending on the peculiarity or complexity of the project, the PO may deem it necessary to insert in the Tender file important elements for the successful completion of the project (plans, photographs, etc.).

The RCTD should simply make sure that the elements presented are consistent with the project concerned.

I.2.4. Information to be extracted

a. In the Tender notice shall include:

- The identification of the Project Owner/Delegated Project Owner;
- The identification of the Tenders Board (TB);
- the numerical reference of the tender notice;
- The subject of the tender notice;
- The date of signature of the tender notice;
- The date of the opening of bids;
- the financial year;
- the source of funding;
- the amount of the tender file purchase fee;
- the estimated cost of the project;
- Publishing Invitation to Tender;
- the number of lots;
- the execution deadline, where applicable;
- the amount of the bid bond;
- prequalified candidates, where applicable.

b. In the Special Administrative Clauses (SAC)

It should be noted that for the case of SAC, additional information will be inserted once the signed contract available.

I.3. RECEIPT OF OFFERS

I.3.1. Documents to be exploited and information to be extracted

a. Offers' register leaf

When submitting their proposals, the tenderers' offers shall be recorded in a register designed by the Regulatory Body and made available to the PO for this purpose.

This excerpt provides information on the candidates who purchased the Tender File, those who submitted an offer, and the time at which this offer was submitted.

The RCTD shall verify in the leaf sent to the Agency:

- if the offers were submitted after the time limit for the submission of offers indicated in the Tender File.
And if it is the case, the RCTD shall check in the opening minutes whether the tenders in question have been declared inadmissible.
Otherwise, he shall take a regulatory act requiring the PO/DPO to apply the provisions of Article 91 (6) of the Public Contracts Code;
- whether the bidders who submitted an offer are those registered in the offers register.

b. Tenderers' offers

The RCTD shall make sure that the presentation of bids complies with the requirements of the Tender File/Request for Quotation

I.4. OPENING OF ENVELOPES

The opening of envelopes takes place at the end of the period granted to bidders to prepare their tenders and on the date set in the tender notice and repeated in the relevant consultation file. The date and time for the opening of bids are those contained in the tender notice (AAO) and the Tender File (TF).

I.4.1. Regulatory provisions

The opening of bids shall be done latest one hour after the time limit for receipt of offers (Article 91 (5) of the Public Contracts Code)

Participation in the bids opening session is restricted to representatives of bidders. The number of representatives per bidder is restricted to (1) even in the case of a group of enterprises (Article 92 (3) of the Public Contract Code).

A quorum is not required when the Tenders Board sits for the opening of bids. However, the presence of the Chairperson and Secretary of the tenders board is required (Article 17 (4) of the PCC).

A bid opening report (PV) is drafted on the spot (Article 92 (4) of the Public Contracts Code).

This report mentions, where applicable, the composition of the evaluation subcommittee (Article 92 (5) of the PCC), whose Chairperson and members are chosen preferably from the list of experts approved by the Body in charge of the regulation of public contracts (Article 94 (2) of the PCC). They shall be of good moral standing, master public contracts procedures and regulations (Article 94 (3) of the Public Contracts Code)

Bids received after the deadline for submission shall be inadmissible (Article 91 (6) of the Public Contracts Code).

NB: It is important to specify that, contrary to other documents in the administrative file for which the bidder is given 48 hours to regularize the document concerned in the absence or non-compliance, the absence of the bid bond at the opening of the bids causes the rejection of the candidate's offer (Article 92 (9) PCC)

I.4.2. Documents to be exploited

The reference documents for this stage are:

- the consultation file;
- leaf of the Register of Offers;
- offers;
- The bids opening report (PV);
- the opinion of the relevant Central Contracts Control Board (CCCB), where applicable;
- the no objection of the Technical and Financial Partners, where applicable.

a. The consultation file

When exploiting the consultation file, the RCTD shall make sure:

- of the conformity of the Tender File sold to bidders with the Tender File adopted by the Tenders Board and transmitted to the Regulatory Body;
- of the compliance of the conditions of admissibility or rejection of offers with the provisions of the Tender File.

b. Offers' register leaf

When submitting their proposals, bidders' offers shall be recorded in a register designed by ARMP and made available to the PO for this purpose.

This excerpt provides information on the candidates who purchased the Tender File, those who submitted an offer, and the time at which this offer was submitted.

The RCTD shall verify in the leaf sent to the Agency:

- If the bids recorded in the bids register have all been forwarded to the Tenders Board ;
- if the offers submitted after the deadline for the submission of offers indicated in the TF were registered and forwarded to the TB.

And if it is the case, the RCTD shall check in the opening minutes whether the tenders in question have been declared inadmissible.

Otherwise, he shall take a regulatory act urging the PO/DPO to apply the provisions of Article 91 (6) of the Public Contracts Code;

- whether the bidders who submitted a tender are those recorded in the offers register.

c. Offers

At the end of the bids opening session, the ARMP receives:

1. a copy of the sample financial offer sealed in case of opening of the bids in two stages in accordance with Article 92 (8) of the Public Contracts Code;
2. a certified copy of tenderers' offers in case of opening of the bids in one-stage in accordance with Article 92 (7) of the Public Contracts Code.

As the exploitation of these offers not being systematic, the RCTD shall only be able to exploit them in the event of appeals, petitions, or investigations.

d. The bid opening report (PV)

The RCTD shall verify in the minutes of opening of offers that:

1. the quorum of the Board provided for the opening of bids has been reached;
2. the evaluation grid for tenders was adopted before the bids were opened (either because it appeared in the tender file or because it was done before the opening of the bids including on the day of opening;
3. the opening took place on the day and time indicated in the tender notice;

4. the offers opened correspond exactly to those submitted;
5. 48 hours were granted to the bidder in the event of absence or non-compliance of an administrative document except for the absence of the bid bond
6. where appropriate, mention is made of the composition of the SCAO. Failing that, make sure of the existence of a decision to establish the members of the SCAO;
7. The SCAO is composed of a chairperson, at least three (3) members and a rapporteur (Article 92 (10) of the Public Contracts Code);
8. the reservations made by the competent Central Contracts Control Board, if any, have been taken into consideration.

e. The opinion of the Central Contracts Control Board

Make sure that the reservations made by the Central Contracts Control Board, if any, have been taken into account.

f. the no objection of the Technical and Financial Partners

The RCTD shall verify whether the donor's no objection has been produced for contracts financed by the TFP that provide for it.

I.4.3. Information to be extracted

In order to feed the database, the RCTD shall extract:

a. From the minutes of the opening of bids

1. Proposed amounts and rebated granted, if any;
2. The date of the opening of bids;
3. The number and the names of bidders.

b. From the decision to establish the SCAO

1. The list of members of the SCAO, and;
2. The deadline granted to the SCAO.

c. From the offers' register leaf:

1. The number of candidates who bought the Tender File;
2. The number of candidates who submitted offers;
3. the tender file purchase fee;
4. The effective time of for the submission of bids by candidates.

I.5. EVALUATION OF OFFERS

At the end of the bid opening session, the Tenders Board appoints a Bid Evaluation Sub Committee (SCAO).

The SCAO is an ad hoc committee responsible for the technical and financial evaluation and ranking of bids.

To this end, it makes sure that the criteria announced by the PO/DPO in the Consultation File (DCE) are respected and that the ranking takes into account the lowest bid for works contracts, supply and quantifiable service contracts, or the best offer for non-quantifiable service contracts, including intellectual services.

I.5.1. Regulatory provisions

The evaluation of bid is governed by the provisions of Articles 94 to 98 of the Public Contracts Code, which deals in particular with its duration and the conditions for selecting the chairpersons and members of the subcommittees who are preferably chosen from the list of experts approved by the ARMP.

In this respect, the SCAO has a deadline set by the tenders board which set it up to submit its report.

The maximum period is ten (10) working days for smaller projects with one-stage opening and a maximum of 15 working days in case of two-stage opening.

This period may be extended to 21 days for complex and large-scale projects.

It should be recalled that (i) for requests for quotation, the Tenders Board itself verifies the conformity of the proposals received with the specifications of the request for quotation file, and (ii) that tenders received as part of a prequalification or mutual agreement are the subject of an evaluation by an ad hoc committee set up by the PO.

I.5.2. Documents to be exploited

The documents generated during this stage, the exploitation of which gives rise to a notice, a letter of regulation or the feeding of the database are:

- Bid Evaluation report;
- summary report;
- Summary note;
- The minutes of the award session

a. Bid Evaluation report

The Person in Charge of Processing the File shall make sure:

1. With regard to the form:

- that the evaluation report is the subject of a single document;
- that it is initialled and signed by all members of the SCAO;
- that the note of the non-signatory members is annexed thereto in the event of discrepancy;
- that the signatory members are those designated by the Tenders Board.

2. Concerning the method of evaluation

- that the binary mode (yes or no) has been chosen for works, supplies and quantifiable services and the mark mode for non-quantifiable services, including intellectual services.

3. Concerning the method of evaluation

- that the evaluation criteria are the same as those mentioned in the Tender File;

If the method or criteria of evaluation are not met, the RCTD initiates a draft letter addressed to the Chairperson of the Board prescribing:

- invalidation of the bid evaluation report;
- strict respect of the provisions of the Special Regulations Governing the invitation to tender of the call for tenders.

4. Concerning the technical evaluation

That the scores awarded are consistent and objective

5. Concerning the financial evaluation

- That the correction of errors was made in accordance with the relevant provisions of the General Regulations Governing the Invitation to tender on the matter.
- That the rebates granted have been taken into account.

Finally, the RCTD takes note of the presence of the evaluation report to feed the data bank with regard to this project.

b. Synthesis report

If the opening of the bids was done in two stages, the report serving as a summary highlights the reminder of the evaluation of the technical offers and the evaluation of the financial offers.

In this case, the RCTD verifies the three points listed in the evaluation report but also the prices proposed by each bidder.

c. Summary note

During the evaluation of offers, the chairperson of the TB may, on the proposal from the SCAO, seek clarifications on the bids from the bidders concerned or from the competent administrations and bodies (Article 95 (3) of the PCC).

The clarifications requested and the answers given must not have the effect of modifying the elements of the offer in order to make it more competitive (Article 95 (4) of the PCC).

In this regard the RCTD shall ensure that:

1. requests for clarifications and replies received are the subject of a summary note and;
2. this note is annexed to the evaluation report;

If the executive summary containing the information on the clarifications is not annexed to the evaluation report, the RCTD shall prepare a note to the Chairperson of the Board urging him to transmit the missing documents with copy to the PO/DPO, MINMAP and IO, where applicable.

d. The award report (PV)

- Consultation references;
- the SCAO ranking;
- the tender board's proposal highlighting the name of the proposed successful bidder, the amount of his offer, the execution deadline.

I.5.3. Information to be extracted

a. Bids evaluation report and summary report

- the SCAO ranking;
- the corrected amounts of each bidder;

- the deadlines proposed by each bidder;

b. Summary note

- Consultation references
- the reasons and resolutions of the note

c. The award report (PV)

- Consultation references;
- the SCAO ranking;
- the tender board's proposal highlighting the name of the proposed successful bidder, the amount of his offer, the execution deadline.

I.6. AWARD

The award of a public contract is the designation of the bidder who becomes the holder of the contract upon signature. It is pronounced by the PO/DPO on the proposal of the TB and is the subject of a decision published in the Public Contracts Logbook (Article 101 (3)).

The award takes place after the evaluation phase of the bidders' offers by the SCAO and the adoption of the evaluation Report by the TB or, at the end of the examination by the Board, of the files relating to a request for quotation.

I.6.1. Regulatory provisions

In accordance with the provisions of Article 99 of the Public Contracts Code, the method of awarding a contract is linked to the nature of the services.

In this respect, and provided that it meets the required technical qualification criteria, the contract shall be awarded through:

- the offer evaluated as the lowest for work contracts, supply contracts and quantifiable services, on the one hand;
- that evaluated as the best offer by combining technical, financial and/or aesthetic criteria for non-quantifiable service contracts, including intellectual services, and contracts awarded following an invitation to tender with design competition.

In addition, for minor works contracts, that may be executed by national very small, small and medium-sized enterprises, the award criteria shall take into account the previous execution of the bidder for similar services and his location (Article 100 (2) of the Public Contracts Code).

I.6.2. Documents to be exploited

The following elements are essential for an appropriate examination of an award decision:

1. The minutes of examination of Bids Evaluation report;
2. the negotiations minutes, where applicable;
3. The opinion of the Central Contracts Control Board;
4. The award decision;
5. The release on the publication of the results.

a. The minutes of the examination of Bid Evaluation report

- the SCAO ranking;
- the corrected amounts of each bidder;
- the deadlines proposed by each bidder.

b. The minutes of negotiations

Drafted as part of the negotiation of a contract, the negotiation report is a document that enables to materialize any agreement reached between the PO/DPO and the successful bidder. This negotiation which objective is to obtain a satisfactory agreement, allows the offer deemed admissible from a technical point of view, but whose financial proposal is superior to the available funding, to fit into the provisional budgetary amount. **Article 103 Public Contracts Code.**

In this case, the amount retained at the end of the negotiation, which may not exceed fifteen percent (15%) of the offer, must be extracted by the **RCTD** in order to feed the databank.

In the absence of the negotiation report, or its non-transmission to the body in charge of the regulation of Public Contracts whereas negotiation was conducted, the RCTD shall contact the PO/DPO to request the transmission of the said document.

c. The opinion of the Central Contracts Control Board

Considered as the point of view or opinion that the Central Contracts Control Board issues on each file within its jurisdiction, and which depends on the nature of the services in accordance with Article 25 of the Public Contracts Code, the opinion which is rendered within a maximum period of ten (10) working days from referral to the Central Contracts Control Board by the PO / DPO, including the time allowed to the Expert to submit his report, may be accompanied by an opinion:

- no objection;

- no objection with reservations or;
- objection.

When exploiting the Central Contracts Control Board's opinion, the RCTD shall check:

1. if the project really falls within the jurisdiction of the Central Contracts Control Board;
2. if the Expert appointed in accordance with Article 35 (1) of the Public Contracts Code not only appears on the list drawn up and regularly updated by the body in charge of the regulation of public contracts, but also has the required competence in the field concerned;
3. if the report sanctioning the work assigned to him is drafted and deals with the specific issues which motivated his choice.

In case the appointed Expert is not mentioned on the aforementioned list or does not have the required skills, the RCTD shall send to the chairperson of the relevant Central Contracts Control Board, a regulatory act prescribing, on the one hand, the cancellation of the report challenged and the appointment of a new Expert, on the other hand.

However, if the difficulty lies in the quality of the Expert's report, the technical aspects of which have not been fully examined, the RCTD shall recommend to the chairperson of the Central Contracts Control Board to return the file to the Expert for further information.

d. Award decision and release on the publication of results

The Release on the publication of results is the document published by the Project Owner on the basis of the award decision, by which he informs the public of the results of a consultation. This release shall mention the name of the successful bidder, the amount at the award and the execution deadline.

The RCTD shall verify:

1. if the release on the award of the contract is signed by the PO (Article 101 (1) of the PCC);
2. if it is published in the Contracts Logbook or any other authorized journal with an indication of the amount of the successful bidder's offer and the deadline (Article 101 (3) of the Public Contracts Code);
3. if it specifies, respectively, the subject of the consultation, the contract successful bidder, his address and the date of its signature, that the said amount

is identical to that proposed for the award, that the deadline for the execution of the contract is clearly indicated, and that unsuccessful bidders are invited to withdraw their bids within 15 working days, except, where applicable, for the successful bidder (Article 101 (5) of the PCC).

In the event that one or more of this information is not included, the Agency shall send a regulatory act to the PO/DPO urging him to publish an addendum with a view to correcting the above-mentioned shortcomings.

I.6.3. Information to be extracted

A great number of information may be extracted during the exploitation of an award decision, a negotiation report, an opinion of the Central Contracts Control Board, a report of the session of adoption of the evaluation of the tenders and the award proposal as well as the report of the Independent Observer.

This information includes the identification of:

- The successful bidder and his address;
- the Project Owner and the Delegated Project Owner;
- The date of the award of the contract and the signing of the award decision;
- the reference of the award decision;
- the subject and the consultation number;
- the type of consultation;
- the organ of publication of the award decision;
- the amount of award or after negotiation where applicable;
- the rebate rate granted, if any, after negotiation;
- the execution deadline of the contract;
- the identification of the competent CCCB where applicable
- the various contract holders and the amount in the event of an allotment;
- dates of the holding of board meetings (ITB/CCCB);
- stage of the session;
- the nature of the malfunctions identified by the independent observer, if applicable.

I.7. SIGNATURE AND NOTIFICATION OF CONTRACT

The signature and notification of the contract are formalities that mark the end of the award process.

I.7.1. Regulatory provisions

In accordance with the provisions of Article 123 of the PCC, each contract shall be a single document printed on both sides of the page, the information of which is set out in Article 124 of the PCC; namely:

- the contract purpose and number;
- means of funding the expenditure and budgetary charge;
- the contracting parties;
- the Project Owner and the delegated Project Owner;
- the Project Manager and Contract Engineer;
- proof of the capacity of the signatory to the contract and the contracting party;
- listing, in order of priority, of the constituent documents of the contract including, the tender or commitment document, the special administrative clauses, the technical specifications or the terms of reference, the estimates detailed estimates, the unit price schedule, the sub-detail of prices and the general administrative clauses to which it is specifically subjected;
- the contract amount, together with the conditions for determining it as well as the possible conditions for its revision or updating;
- tax and customs obligations;
- the execution period and place;
- the conditions for the constituting and refunding guarantees;
- The notification date;
- the bank domiciliation of the administration's contracting partner;
- service acceptance or delivery conditions;
- the service payment methods;
- the accounting officer in charge of payment;
- dispute settlement conditions;
- conditions for termination of contracts; and
- the competent court and applicable law.

The RCTD shall verify that the information contained therein is the same as that contained in the award decision (or release), those relating to the contract holder, the amount, the execution period or delivery and the budgetary charge.

I.7.2. Documents to be exploited

The main documents that will be systematically exploited are:

1. the minutes of the TB relating to the examination session of the draft contract awarded by mutual agreement or amendment;
2. The minutes of the CCCB on the examination of the draft contract;

3. The notified and signed contract.

a. The minutes of the Tenders Board on the examination of the draft contract awarded through mutual agreement or the draft amendment

In exploiting this document, the RCTD shall make sure of:

1. the respect of the quorum required for the examination of a file by the Internal Tenders Board;
2. the signing of the minutes by the chairperson and secretary of the Board;
3. the presence of the Independent Observer at the meeting for projects under his jurisdiction;
4. compliance with the deadlines for examination of draft contracts awarded by mutual agreement prescribed to the Board (Article 111- 3 of the Public Contract Code);
5. compliance with the examination modalities of files on draft contracts of mutual agreement (Article 23-d of the PCC);
6. compliance with the examination modalities of files related to draft amendments (Article 23-d of the PCC).

In case these formalities are not met, the RCTD shall initiate a draft letter addressed to the Chairperson of the Tenders Board concerned urging to henceforth comply with the regulations.

b. The minutes of the CCCB relating to the examination of the draft contract awarded following the mutual agreement procedure or the draft amendment.

In exploiting this document, the RCTD shall make sure of:

1. the respect of the quorum required for the examination of a file by the CCCB;
2. the signing of the minutes by the chairperson and secretary of the CCCB;
3. the compliance with the deadlines for the examination of files prescribed to the CCCB;
4. the compliance with the examination modalities related to mutual agreement of draft contracts (Article 39-c of the PCC);
5. The compliance with the examination conditions related to draft amendments (Article 39-d of the PCC).

c. The notified and signed contract

In case these terms and conditions are not met, the RCTD shall initiate a draft letter addressed to the chairperson of the CCCB concerned urging him henceforth comply with the provisions.

I.7.3. Information to be extracted

On the draft contract awarded by mutual agreement or amendment, the RCTD shall extract the date and purpose of the meeting as well as the opinion of the Tenders Board.

On this document, the RCTD shall extract the date, the purpose of the meeting, the allottee and the opinion of the CCCB concerned.

The following essential information shall be extracted by the RCTD on the signed contract:

- The subject of the contract;
- The execution and delivery period;
- The contract amount;
- The contract holder;
- PO:
- Budgetary charge;
- The date of signature of the contract;
- The date of notification of the contract;
- The Contract Manager;
- The Contract Engineer;
- The Project Manager where applicable.

II. DOCUMENTATION OF THE EXECUTION PHASE

Contrary to the documents of the award phase that are collected by the Agency or transmitted to the Agency by the stakeholders, those of the execution phase are mostly transmitted to the Agency by the actors gradually as they are generated; namely:

- during the actual execution of the services;
- During the closing of the contract;
- after the closing of the contract.

In addition, the exploitation of this documentation does not give rise to the taking of corrective or didactic measures (regulatory acts), but allows the Agency to give relevant opinions at the request of the stakeholders during the examination of the petitions of the administrations' contracting partners, in particular.

II.1. THE EXECUTION OF CONTRACTS

II.1.1. Regulatory provisions

Several regulatory instruments govern the execution phase of contracts, but the most used are:

- The Public Contracts Code;
- the various General Administrative Clauses put into force by Order No. 033/CAB/PM of 13/02/2007;
- Decree No. 2018/355 of 12 June 2018 to lay down the rules applicable to public enterprises' contracts;
- Circular letter implementing the public contracts code;
- The implementing instruments especially the Circular Letter No. 005/CAB/PM of 18/04/2005 on the monitoring of the execution of public contracts.

II.1.2. Documents to be exploited

The contract execution phase generates several documents that can allow the RCTD to better decide in the event of a complaint or request received at this stage.

And without being exhaustive, documents that can be considered as the most important are:

1. Administrative orders;
2. Signed and notified Amendments, and;
3. Minutes of provisional acceptance.

a. Administrative orders (OS)

These are communication documents between the contracting partner and the administration. They enable the PO/DPO to prescribe the start of services or to make changes on clauses of the contract under execution.

Indeed, it is through these documents that the PO/DPO will be able to notify the contracting party of:

- i. The start of works;
- ii. the deadline extension;
- iii. the cancellation of the services contained in the contract;
- iv. suspension or resumption of services;
- v. Additional services.

The administrative orders are signed by the Contract Manager. However, those affecting the objective, cost and deadlines of the services can only be signed by the PO/DPO and notified where necessary by the Project Manager.

They are defined in the Special Administrative Clauses (SAC) and are governed by the provisions of Articles 123 (6) and 130 (5.6) of the PCC, and 7 of the General

Administrative Clauses (Services and intellectual services (SPI)), 8 of the General Administrative Clauses (Works and Supplies).

In their exploitation, the RCTD shall:

1. Ensure that the content of the administrative order is in conformity with the contract, the references and the subject of the contract
2. check that the cost of the additional services to be executed does not exceed 10% of the basic contract,
3. verify that the administrative order exploited is signed and notified by the competent officials.

b. Signed and notified amendments

These are contractual documents by which the PO/DPO makes changes on a contract under execution.

The conditions of use of the amendment are defined by the provisions of Article 130 of the Public Contracts Code.

Upon receipt of this document, the RCTD shall verify:

1. whether the subject of the amendment complies with the basic contract;
2. if the amount complies with the 30% defined in the provisions of Article 130 (c) of the Public Contracts Code, in case of financial incidence;
3. whether the amendment is accompanied by a presentation note from the PO;
4. if it is subscribed by the allottee and registered;
5. if it has been examined by the Tenders Board.

c. The provisional acceptance minutes

These documents allow the PO/DPO to validate the full execution of the services for work contracts subject to a guarantee period before the closure of the contract. They are sometimes preceded by certificates of conformity or pre-acceptance reports.

They are governed by the provisions of Article 157 (2) of the PCC.

During their exploitation, the RCTD shall verify:

1. the prerequisites for this acceptance have been met;
2. execution deadlines have been respected;
3. MINMAP was convened as an observer;
4. the report is signed by at least 2/3 of the members including the chairperson;
5. The minutes were delivered with or without reservations If it is pronounced with reservations, check the conditions for lifting these reservations.

II.1.3. Information to be extracted

When exploiting the above-mentioned documents, the RCTD shall extract the following information for the purpose of feeding the data bank:

a. In Administrative orders (OS):

1. the effective dates and services deadlines ;
2. the nature of the services to be performed;
3. the names of the officials who signed these Administrative Orders.

b. In Amendments signed and notified:

1. the references and purpose of the Amendment;
2. the dates of subscription, signature and registration;
3. The execution deadlines and the amount, where applicable.

c. In the provisional acceptance minutes

1. the names and capacity of the signatory members;
2. the acceptance dates and details(indications) on the minutes;
3. the deadlines for lifting any reservations;
4. the delay in the execution of the services, where applicable;
5. the physical and financial execution rate.

II.2. CLOSURE OF CONTRACTS

The execution of a contract begins with the notification of the administrative order to commence (OSD) and ends with the technical validation for non-quantifiable service contracts, including intellectual services, the final acceptance for supply and works contracts, on the one hand, or with the termination of the contract when the services have not been fully performed, on the other hand.

Closing a contract is the set of operations that mark the end of the contractual relationship between the contracting partner and the administration.

II.2.1. Regulatory provisions

When closing a contract, there are two possible scenarios:

1. the case where the services are performed in full, in accordance with the contractual provisions, duly established by a committee in a report (PV) (articles 67 (2) of CCAG/works; 40 of CCAG/supplies; 36 of CCAG/SPI).
2. the case where the services are not performed in full due to the default of the contracting partner (articles 180 and 181 of the PCC; and 42 of the CCAG/SPI;

74 CCAG/works; 57 CCAG/supplies) or due to the Administration (article 43 CCAG/SPI.). In these cases, closing is evidenced by a termination decision.

II.2.2. Documents to be exploited

Without being exhaustive, the reference documents for the closing of a contract are:

1. The final acceptance minutes;
2. Technical validation minutes for quantifiable service contracts and intellectual services;
3. Formal notice;
4. The default report or deficiency report, and;
5. The termination decision.

a. The final acceptance minutes

It is a document that puts an end to the execution of the services. (Art 75 of the SAC/W.) Unless otherwise stipulated in the SAC, the final acceptance takes place within a maximum period of fifteen (15) days from the expiry of the guarantee period.

Final acceptance takes place one year after provisional acceptance in the case of works contracts and six months after provisional acceptance in the case of supply contracts.

At the end of the committee session and verification that the contractual clauses have been complied with and that the prescribed tasks have been carried out, the Project Manager will draw up a final acceptance report, which will be signed on the spot by the members and the contractor.

b. Technical validation report

This is a document that marks the end of execution of quantifiable service contracts, including intellectual services (SPI) (Article 48 CCAG/SPI).

c. Formal notice

The formal notice is a document that the PO or DPO serves to the administration's contracting partner within a specified period when the latter fails to comply with the relevant administrative orders, as the case may be. This period may not be less than twenty-one (21) calendar days, unless an exemption is provided for in the SAC.

This is a prerequisite for any termination.

d. The deficiency report

The default report is a document drafted by the PO or DPO in the form of a report in the event that the assessment of the formal notice is deemed unsatisfactory. It marks the contracting partner's default.

This is the second stage in the prerequisites for a termination.

e. The termination decision

The termination decision is a document drafted by the PO to materialise the termination of the contract (art. 74.1 of GAC/W; 57.1 GAC/S; 42.1 GAC/SPI).

It shall be notified to the contractor in accordance with the provisions of Article 6 of the GAC/SPI ;

II.2.3. Information to be extracted

When exploiting the above-mentioned documents, the RCTD shall extract the following information for the purpose of feeding the data bank.

It includes:

a. For the minutes

- The acceptance date;
- Composition of the acceptance committee;
- the signatories.

b. For the formal notice

- information on the stoppage of services;
- Deadline of the formal notice;
- The date of the signature of the formal notice;
- the signing authority.

c. For the deficiency report

- the reason of the deficiency;
- The date of notification of the formal notice;
- the signing authority.

d. For the termination decision

- the reasons of the termination;
- the effective date;
- who is the defaulter (service provider or not; including shared blame).

II.3. PAYMENT FOR SERVICES

The payment for services is the remuneration that the contracting partner receives after a public contract has been performed.

The principle of payment for public contracts is to pay the contracting partner on account after the services have been executed, to reflect the value of the services already executed.

The amount of an advance payment may not exceed the value of the services to which it relates.

However, the administration's contracting partners may receive a so-called start-up or supply advance, subject to the production of a security deposit of the same amount.

II.3.1. Regulatory provisions

Payments and their deadlines are governed mainly by the provisions of articles 27 and 30.4 of the GAC/W, 19 of the GAC/S, and 160, 162, 165 of the Public Contracts Code.

Advances are payments made in advance to the administration's contracting partners, with a view to carrying out the operations required to perform the services provided for in the contract. The granting of advances must be expressly provided for in the SAC. (Art 159 Public Contracts Code) article 28 of the GAC/W (for work contracts), article 21 of the GAC/S (for supply works) and article 18 of the GAC/SPI (for Services and Intellectual Services).

These advances are used either for start-up (start-up advance) or for supply (supply advance).

Where they are provided for in the SAC, they shall be requested by the service provider.

The start-up advance may not exceed 20% of the amount of the initial price (inclusive of taxes) of the contract for works or intellectual services and 40% for supply contracts of public companies (Art 160 (1) of the Public Contracts Code). Advances are 100% guaranteed.

The advance payment is the payment to the contractor. Its amount is determined on the basis of the corresponding provisional detailed account, drafted cumulatively, from which the amount of the previous detailed account is deducted.

It does not have any final payment nature and is made in accordance with the SAC and according to the status of the work executed. (Art 27 of the GAC/W.)

II.3.2. Documents to be exploited

The reference documents for the payment of services are:

1. the advance start-up detailed account or advance on supply detailed account;
2. the invoice for supply contracts;
3. the request for an advance payment for intellectual service contracts;
4. the provisional detailed account, the final detailed account, the general and final detailed account and the liquidation detailed account for works contracts.

a. The start-up advance detailed account or advance on supply detailed account

The start-up advance detailed account or advance on supplies detailed account is an accounting document that allows this advance to be paid on production of a bank guarantee for the same amount.

b. The provisional detailed account, invoices and requests for advance payments

It is a document that enables to make advance payment. It is a draft detailed account that the contractor submits to the Project Manager, before the sixth day of each month, together with supporting calculations and job cost sheets, establishing the total amount to be paid to the contractor, approved at the end of the under consideration.

This payment is made after the services have been executed. It may be drawn up during a period of services and is referred to as a provisional detailed account. It is drawn up on the basis of a job cost sheet that periodically determines the quantities of services already executed.

c. The final detailed account

For works contracts, the final detailed account is a document that the contractor drafts after completion of the works (provisional acceptance), establishing the total amount of the sums which he may claim as a result of the execution of the contract as a whole. It comprises the same parts as the provisional detailed accounts and is accompanied by supporting documents and calculations.

It is submitted to the PO within one month from the date of provisional acceptance of the services. (Art 34 of the GAC/W).

d. The general and final detailed account

The general and final detailed account is a payment drawn up in work contracts by the Contract Manager or, where applicable, the Project Manager, within one (1) month from the date on which final acceptance is declared and includes:

- The final detailed account and possible addenda;
- Eventually, the release of the balance of the retention bond
- Eventually, the valuation of exceptional work ordered by the Contract Manager during the guarantee period and not covered by the said guarantee;
- A summary of the monthly down payments and the balance.

The amount of the general and final detailed account is equal to the result of this last summary.

The general detailed account can only become final once it has been signed without reservations by the contractor, except in the case provided for in paragraph 35.5 of the GAC/W. Acceptance of a claim by the contractor shall be regularized by an addendum to the general detailed account.

e. The liquidation detailed account

It is a detailed account established when the contract is terminated because of the PO. It highlights:

- the debit items (the amount of the sums paid as an advance, deposit, partial payment, final payment and balance, the value set by the contract and any amendments thereto, the amount of penalties);
- the credit elements (the contractual value of the services received, the expenses incurred by the service provider, staff costs, a lump sum calculated by applying VAT, etc.) of the service provider. It has been drafted taking into account the provisions of Articles 42 and 43 of the GAC/SPI unless otherwise stipulated in the contract.

II.3.3. Information to be extracted

When exploiting the above-mentioned documents, the RCTD shall extract the following information for the purpose of feeding the data bank. Information to be extracted as the case may be:

1. The amount of the advances, the date of signature, the retention bond;
2. the amount of services carried out during a given period, the positive elements (start-up advance, services with AIR included), the negative elements (retention bond, repayment of advance, delay penalties), the total payments, the assignees (the Contract Manager, the Project Manager, the Engineer, the Company, the name of the PO, the Payer);
3. works valued on the basis of the unit and/or fixed prices, advances, interests on overdue payment, penalties, deductions, repayments and bonuses
4. the total amount of the sums to be paid, the supporting documents and calculations, the regularisation addenda;
5. the balance of the retention bond, the summary of the monthly down payments and the balance, the assignees;
6. the debit elements, the amount of the sums paid as advance, down payments, final partial payment and balance, the value, fixed by the contract and its amendments, if any, the amount of the penalties, the expenses incurred, the closing minutes, if any.
7. The delivery date and quantities delivered.

III. OTHER DOCUMENTS

III.1. REPORTS AND OPINIONS

Staff posted to the Agency's professional structures receive some documents that are used when examining a file or issuing opinions by the Agency.

Each of these documents, once exploited, is used to feed the data bank.

These documents include:

- reports, and;
- opinions.

The reports sent to the body in charge of the regulation of public contracts for exploitation come from various stakeholders involved in the award and execution of public contracts. These reports include:

1. Periodic Activity Reports of Tenders Boards;
2. The Independent Observers' reports;
3. The opinions of the Central Contracts Control Boards;
4. The reports of the Internal Public Contracts Administrative Management Entities (SIGAMP);
5. the Project Managers' reports;

6. reports from the Gross Domestic Product (GDP) Local Participatory Monitoring Committees.

III.1.1. Regulatory provisions

The regulatory provisions governing the transmission of reports to the Agency are articles 8, 9, 10, 19, 25, 40, 42 and 26 of the Public Contracts Code.

III.1.2. Documents to be exploited

a. Tenders' Boards periodic activity reports

These are technical support bodies under the to the Project Owners for the award of contracts.

Their role is to:

1. examine and issue technical opinions on draft tender files and requests for quotations prepared by the Project Owners;
2. examine and adopt, where necessary, the scoring grids before the bids are open;
3. open the bids;
4. set up Bids evaluation sub-committees;
5. prepare, where appropriate, the files to be submitted to the Central Contracts Control Boards for their opinion;
6. make proposals for the award of contracts to the Project Owners;
7. issue opinions on draft amendments and draft contracts awarded by mutual agreement.

The Chairperson of the Board prepares a quarterly activity report and sends it to the body in charge of regulating public contracts.

b. The Independent Observers' reports

The Independent Observer, responsible for ensuring compliance with the regulations, the rules of transparency and the principles of fairness in the public contracts process, sends to the body in charge of regulating public contracts a detailed report on the said work and that of the bid evaluation subcommittee, where applicable, within seventy-two (72) hours from the end of the deliberations of the Tenders Board.

This report contains information on:

1. the project programming (from launch to acceptance of services) ;
2. the meeting (date, purpose, venue, composition of the board, convening notice of the meeting, attendance sheet, minutes of the meeting, etc.);
3. malfunctions noted.

c. Central Contracts Control Boards' opinion

The Central Contracts Control Boards are technical bodies under the Minister in charge of public contracts, responsible for the ex-ante control of public contracts award procedures within their remit, initiated by the Project Owners.

The Central Contracts Control Board issues reasoned opinions which are notified to the Agency:

1. the reasoned opinion is notified within a maximum of forty-eight (48) hours from the date of closing of the deliberations, for a no objection opinion on the award;
2. the reasoned opinion is notified within forty-eight (48) hours from the date of closing of deliberations, for a no objection opinion with reservations or objection opinion.

d. The reports of the Internal Public Contracts Administrative Management Entities

They are entities placed under Project Owners and Delegated Project Owners to assist them in the execution of their duties, including the drafting of quarterly, half-yearly and annual reports on the award and execution of contracts.

e. The Project Managers' reports

The Project Manager is a person responsible for guaranteeing the interests of the Project Owner.

During the execution phase, and in accordance with the provisions of his contract, he prepares reports on the technical and financial progress of the project.

f. Reports from the GDP Local Participatory Monitoring Committees)

The GDP's Local Participatory Monitoring Committees, within which the Agency is represented, are bodies located in regions, divisions and Councils and help to promote transparency through a participatory approach in public investment management.

They produce regular reports (quarterly, half-yearly, annually) on projects at the subdivisional, divisional and regional levels.

III.1.3. Information to be extracted

The data extracted from the aforementioned reports by the RCTD in order to feed the data bank concerns:

a. For the Tenders Board's report

1. The launch dates of the invitation to tender;
2. The dates of bid opening;
3. The award dates;
4. The amount of the award;
5. The names of successful bidders;
6. The execution deadline;
7. The various fundings.

b. For the Independent Observer's report

1. The date of the meeting;
2. The subject of the meeting
3. The venue of the meeting;
4. The composition of the Board;
5. Initial dates for the launching and acceptance of services

c. For the opinions of the Central Contracts Control Boards

1. The no objection opinion;
2. The no objection opinion with reservations;
3. The objection opinion.

d. For the reports of the Internal Public Contracts Administrative Management Entities

1. The launching date of the invitation to tender;
2. The date of bid opening;
3. The award date;
4. The amount of the award;
5. The name of the successful bidder;
6. The execution deadline;
7. The funding;
8. The start-up date;
9. The physical and financial progress rate;
10. The dates of the suspension and resumption of services;
11. The acceptance or termination dates.

e. For the Project Managers' reports

1. the physical and financial execution rate during the period concerned ;
2. the deadline consumed;
3. the amounts of the paid and unpaid detailed account of the works contract;

4. the amounts of the paid and unpaid detailed accounts of the project management contract.

f. For the reports from the GDP Local Participatory Monitoring Committees

1. The number and amount of contracts programmed;
2. number and amount of projects launched;
3. number and amount of projects awarded;
4. number and amount of contracts started;
5. number and amount of contracts signed;
6. number and amount of contracts accepted;
7. number and amount of contracts abandoned;
8. number and amount of contracts suspended;
9. the number and amount of contracts terminated.

III.2.DECISIONS AND ACTS

The Agency also receives various types of decisions and acts, which are used to feed the Data Bank.

III.2.1. Regulatory provisions

Decisions forwarded to the Agency are governed by regulatory provisions (articles 19 (3), 184 (3) and 191 of the Public Contracts Code).

Acts are taken by the Public Contracts Authority in accordance with the provisions of Article 10 of the Public Contracts Code.

III.2.2. Documents to be exploited

Decisions sent to the Agency for exploitation concern:

- contracts award;
- contracts termination;
- cancellations of contracts termination decisions;
- sanctions against stakeholders in the public contracts system.

With regard to acts, they concern:

- Appointments of board chairpersons and members (Article 15 (2) of the Public Contracts Code);
- Establishment of the appointment of board chairpersons and members (Article 16 (3) of the Public Contracts Code).

Here, the RCTD is required to check cases of incompatibilities of the persons appointed in connection with the position.

III.2.3. Information to be extracted

The data extracted by the RCTD in order to feed the Data Bank are:

a. For contracts award

1. The decision number;
2. The subject of the service;
3. The award date;
4. The name of the successful bidder;
5. The amount of the award;
6. The execution deadline;
7. The execution place;
8. The funding.

b. For contracts termination

1. The decision number;
2. The subject of the contract;
3. the date of signature of the decision to terminate the contract ;
4. The Contractor's name;
5. the date on which the suspension takes effect, where applicable ;
6. the duration of suspension, if applicable.

c. For cancellation of termination decisions

1. The decision number;
2. The subject of the contract;
3. the date of signature of the decision to cancel the termination;
4. The Contractor's name.

d. For the appointment of board chairpersons and members

1. the appointment document number;
2. the date of appointment;
3. the names of the members appointed;
4. the duration of the function.

e. For establishment of the appointment of board chairpersons and members

1. the establishment document number;
2. the establishment date;
3. the names of the members appointed;
4. the date on which the function takes effect.

**SECTION II | MANAGEMENT OF COMPLAINTS, PETITIONS AND
DISAGREEMENTS**

I. PETITIONS BY BIDDERS

In accordance with the provisions of Article 170 of the Public Contracts Code, candidates and bidders who feel they have been wronged can file a petition either with the Project Owner or the Delegated Project Owner, or with the Follow-up and Technical Validation Committee.

These petitions can be lodged at the following stages:

- In the prequalification phase;
- Between the publication of the invitation to tender and the opening of bids;
- During the opening of bids;
- Once the technical bids have been evaluated, when the bids are opened in two stages, and ;
- Between the publication of the results and notification of the contract.

I.1. AT THE PREQUALIFICATION PHASE

In the prequalification phase, petitions generally concern challenges to:

1. request conditions;
2. prequalification criteria;
3. prequalification results;

Under pain of foreclosure, candidates have five (5) working days before the date of submission of applications and five (5) working days after the publication of prequalification results to lodge their petition with the PO/DPO (Article 171 of the Public Contracts Code)

I.1.1. Conditions for request for expression of interest

Candidates petitions may deal with:

- non-publication of the call for expressions of interest;
- failure to meet the deadline for the submission of applications.

The person in charge of processing the file must use the AMI according to the procedure described in point I.1.2.a of this guide.

If the petition proves to be admissible and justified, he shall initiate a regulatory act urging the PO/DPO to comply with the provisions of Articles 76 (2) (in the event of non-publication) and 77 of the Public Contracts Code (in the event of failure to meet the deadlines) on the one hand, and to issue an addendum extending the deadlines for submission of applications on the other.

I.1.2. The prequalification criteria

Petitions often concern the subjectivity of the qualification criteria. The person in charge of processing the file, through the exploitation of the call for expression of interest (AMI), the prequalification report and the applications from candidates previously required from the PO/DPO, where applicable, shall make sure:

- that the call for applications specifies in an objective and verifiable manner the qualification criteria, in particular the administrative conditions used to justify the legal existence of the candidate and the references in the field concerned. If this is not the case, draw the attention of the PO/DPO to the shortcomings observed and suggest that corrections be made;
- of the regularity of the prequalification of the short-listed candidates by checking that:
 - the reasons for eliminating unsuccessful candidates following technical evaluation are justified;
 - the scoring is applied fairly.

If the petition is admissible and justified, bring the irregularities observed to the attention of the PO/DPO and suggest that the applications should be re-examined.

I.1.3. The prequalification results

At this stage, petitions deal with the regularity of the prequalification and the non-publication of the shortlist of pre-qualified candidates.

The person in charge of processing the file by exploiting the AMI, the prequalification report and the applications from candidates earlier required from the PO/DPO, where applicable, shall make sure:

- of the regularity of the prequalification of the short-listed candidates by checking that:
 - the reasons for eliminating unsuccessful candidates following the technical evaluation are justified;
 - the scoring is applied fairly.

If the petition is admissible and justified, bring the irregularities observed to the attention of the PO/DPO and suggest that the applications should be re-examined;

- that the prequalification process conducted by the PO/DPO has resulted in the drawing up of a shortlist published before the launch of the restricted invitation to tender, if not, instruct the PO/DPO to comply with Article 76 (7) of the Public Contracts Code, which requires the prequalification process to result in

the drawing up of a shortlist published before the launch of the restricted invitation to tender.

I.2. BETWEEN THE PUBLICATION OF THE TENDER NOTICE AND THE OPENING OF BIDS

At this stage, the Agency may be prompted to issue various opinions following petitions from potential bidders

These petitions generally relate to:

1. failure to make available the tender file to potential candidates;
2. Failure to publish the tender Notice;
3. The relevance of the specifications or technical criteria;
4. Failure to use the Standard Consultation Files in force;
5. The conformity of the award method and selection procedure;
6. Inconsistency between the Tender File purchase fee, the bid bond and the project amount;
7. brand names without the word “or equivalent”;
8. non-compliance with the deadline allowed to bidders to prepare their bids.

These petitions, which do **not have suspensive** effect, relate mainly to the consultation files and must be sent to the PO/DPO with copy to the Authority in charge of Public Contracts (ACMP) and the ARMP no later than **14 working days** before the date of the opening of offers, in accordance with the provisions of **Article 172 of the Public Contracts Code**.

The PO/DPO has 5 working days to respond, with copy to the ACMP and the ARMP, and in the event of disagreement, the petition may be brought to the attention of Petitions Review Committee (see. **Article 172 of the Public Contracts Code**).

In order to deal with all these types of petitions, the RCTD shall first obtain the documentation needed to examine the case, depending on the problem at hand, that is:

- Regulatory instruments on Public Contracts;
- the model tender file (DTAO) referred to;
- The consultation file concerned;
- The published tender notice, where applicable;
- the bids register sheet, where applicable;
- the minutes of examination of the Tender File, where applicable;
- the Independent Observer’s report on the session for examining and adopting the Tender File, where applicable;
- the opinion of the Central Contracts Control Board (CCCB) on the Tender File, where applicable.

I.2.1. Failure to make the Tender File available

If the Tender File is not made available to potential candidates, the RCTD shall:

1. make sure that the petition has been lodged within the deadline (Art 172.b of the Public Contracts Code);
2. check that the Tender Notice has been published and use it to extract the date of signatures, the time remaining for the submission of bids, the modalities and place of acquisition of the Tender File ...;
3. cross-check the information with the relevant stakeholders concerned, where appropriate (SIGAMP, PO, etc.);
4. if the facts are confirmed and the opening of offers has not yet taken place, prepare a note and draft letter to be sent to the PO/DPO to take steps to remedy the situation, including postponing the date for opening the bids;
5. if the facts are confirmed and the bids have already been opened, instruct the PO/DPO to suspend the procedure and propose its cancellation to MINMAP;
6. in the 02 cases mentioned above, contact the complainant to inform him/her of the steps taken by the Agency after examining his/her petition;
7. if the facts are not proven, inform the complainant that his petition is not justified.

I.2.2. Failure to publish the tender Notice

In case of non-publication of the tender notice, the RCTD shall:

1. make sure that the petition has been lodged within the deadline (Art **172.b of the Public Contracts Code**);
2. use the Public Contracts Logbook (JDM) and “Cameroon Tribune” of the period concerned to check the veracity of the petitioner’s allegations;
3. if the fact is established and the date for the opening of bids has not yet expired, prepare the note and draft letter to be sent to the PO/DPO for publication of the Tender Notice in the Public Contracts Logbook and compliance with the deadline for the submission of bids;
4. if the facts are confirmed and the bids have already been opened, instruct the PO/DPO to suspend the procedure and propose its cancellation to MINMAP;
5. in the 02 cases mentioned above, contact the complainant to inform him/her of the steps taken by the Agency following the examination his/her petition;
6. if the facts are not proven, inform the complainant that his petition is justified.

I.2.3. The relevance of the specifications or technical criteria

If the criteria are subjective or discriminatory, the conditions of participation of the companies or the guarantees required are inappropriate, the person responsible for processing the application shall:

1. make sure that the complaint has been lodged within the deadline (Art 172.b of the Public Contracts Code);

2. use the Tender File (RPAO, technical description of services where applicable) and examine the facts challenged in order to establish whether or not they are relevant;
3. if necessary, seek elements of appraisal relating to the specificities of the service in order to decide (*on the Internet or from experts in the field*);
4. if the facts are confirmed and the opening of offers has not yet taken place, prepare a note and draft letter to be sent to the PO/DPO to draw his attention to the shortcomings identified and instruct him to remedy them through an addendum;
5. if the facts are confirmed and the opening of bids has taken place, prescribe suspension of the procedure to the PO/DPO and propose its cancellation to MIMMAP with a view to reinitiating the procedure if the impact of the shortcomings on the project is deemed to be too serious;
6. in the 02 cases mentioned above, contact the complainant to inform him/her of the steps taken by the Agency following the examination of his/her petition;
7. if the facts are not proven, inform the complainant that his petition is not justified.

I.2.4. Failure to use the model consultation files

If the consultation file does not comply with the model tender file (DTAO) in force in the field concerned, or if there are inconsistencies between documents of the Tender File or if contradictions have been detected in the Tender File (for example: 01 criteria which differs from one document to another or the time limit for the execution of the services, etc.), the person responsible for processing the file shall:

1. make sure that the complaint has been lodged within the deadline (Art 172.b of the Public Contracts Code);
2. exploit the Tender File and examine the facts challenged in order to establish whether or not they are relevant;
3. if the facts are confirmed and there is sufficient time to do so in relation to the date scheduled for the opening of offers, prepare a note and draft letter addressed to the PO/DPO to draw his attention to the inconsistencies and instruct him to remedy them through an addendum;
4. if the facts are proven but the opening of offers is effective, prescribe that the observations are taken into account in the continuation of the procedure, while drawing the attention of the PO/DPO to the future, or if the shortcoming cannot be remedied, prescribe the suspension of the procedure to the PO/DPO and propose its cancellation to MIMMAP ;
5. in the 02 cases mentioned above, contact the complainant to inform him/her of the steps taken by the Agency following the examination of his/her petition;
6. if the facts are not proven, inform the complainant that his petition is not justified.

I.2.5. The conformity of the award method and the procedure for the selection of bidders

If the award method and selection procedure do not comply with the regulations, the person responsible for processing the application shall:

1. make sure that the petition has been lodged within the deadline (Art 172.b of the Public Contracts Code);
2. exploit the Tender File and examine the facts challenged in order to establish whether or not they are relevant;
3. if the facts are confirmed and the deadline for the submission of offers has not yet expired, prepare a note and draft letter to be sent to the PO/DPO to draw his attention to the irregularities and instruct him to remedy them through an addendum;
4. if the facts are confirmed but the opening of offers is effective, instruct the PO/DPO to suspend the procedure and propose to *MIMMAP* that it shall be reinitiated;
5. in the 02 cases mentioned above, contact the complainant to inform him/her of the steps taken by the Agency after examining his/her petition;
6. if the facts are not proven, inform the complainant that his petition is not justified.

I.2.6. Inconsistency between the Tender File purchase fee, the bid bond and the amount of the project

If there is a discrepancy between the Tender file purchase fee and the amount of the bond and the cost of the project, the RCTD shall instruct the Project Owner to align the Tender File purchase fees with the amounts in force, through an addendum.

I.2.7. Indication of a trademark without mentioning, “or equivalent”

In the event that a trademark is indicated without mentioning “or equivalent”, the RCTD shall prescribe the withdrawal of the trademark or the addition of the word “or equivalent,” through an addendum.

I.2.8. Non-compliance with the deadline for the submission of offers

The RCTD shall make sure that the deadlines referred to in Article 89, paragraphs 1 and 2 have been respected.

If this is not the case, the PO/DPO shall be instructed to issue an addendum extending the deadline for the submission of offers.

I.3. PETITIONS AT THE OPENING OF THE OFFERS

In accordance with the provisions of Article 173 of the Public Contracts Code, the petition is addressed to the Petitions Review Committee, with copy to the PO/DPO, the Chairperson of the Tenders Board concerned, the ACMP and the ARMP, no later than **three (3) working days** after the opening of offers.

At this stage, petitions relate to compliance with the procedures and the regularity of the documents checked, and more specifically to :

1. receipt of offers;
2. the terms and conditions for the opening of offers (failure to respect the time for opening the bids, etc.)
3. the admissibility and rejection of offers;
4. The minutes of the session;
5. the integrity of the offers.

I.3.1. The receipt of offers

If bids are received late, the RCTD shall check in the minutes of the opening of bids whether the said offers have been eliminated (have not been opened). And if they have been opened, he shall give an opinion to the CER or, where appropriate, to the PO, with copy to the Internal Tenders Board (ITB) and the Authority in charge of Public Contracts (ACMP), with a view to the application of the provisions of Article 91 (6) of the Public Contracts Code;

I.3.2. Modalities for the opening of offers

If the time and place for opening the offers are not respected, the RCTD must make sure in the report that the date and time for the opening offers have not been respected. And if it is not the case, he must give an opinion to the CER or, where appropriate, to the PO, with copy to the Internal Tenders Board and to the ACMP, with a view to the application of the provisions of Article 91 (5) of the Public Contracts Code;

The RCTD shall make sure of;

1. the compliance with the different opening phases (one stage opening and during the same session for works, supply contracts and quantifiable service contracts (binary scoring). **Art 93 (1)** a two-stage opening for non-quantifiable service contracts, including intellectual service contracts (marks scoring);
2. the fact that in the event of a two-stage opening, the financial offer has not been opened;
3. the fact that the constituent documents of the tender are contained in a separate envelope;

I.3.3. Admissibility and rejection of offers

Irregular admissibility and improper rejection of offers

The RCTD shall make sure in the minutes that no bidder has been eliminated at this stage for failure to comply with an administrative document without being given 48 hours to do comply (Article 92 [9]). And if this is the case, send a letter to the chairperson of the Tenders Board asking it to integrate the rejected bid.

I.3.4. The Minutes of Bid Opening Session

If the minutes of the bid opening session are not submitted, the RCTD shall make sure that a report has been drawn up on the spot in the forge-proof register designed by the Agency for this purpose, and that the report contains all the information required by the provisions of Article 91 (4 and 5); if this is not the case, the RCTD shall give a notice to the CER or, where appropriate, the Internal Tenders Board with a view to the application of the provisions of the aforementioned Article.

I.3.5. The integrity of the bids

If these various opening modalities are not complied with, the RCTD shall issue a regulatory act ordering the cancellation of the procedure for failure to comply with the provisions of Article 2 of the Public Contracts Code;

I.4. PETITIONS AT THE EVALUATION OF TECHNICAL OFFERS

If bids are open in two stages, bidders must be informed of the results of the evaluation of the technical bids before the financial bids are opened (Article 174 of the Public Contracts Code).

These petitions, which do not have suspensive effect, may only relate to the technical evaluation.

They are sent to the Petitions Review Committee, with copy to the PO/DPO, the Chairperson of the Tenders Board concerned and the ACMP, not later than **three (3) working days** after the opening of bids.

In this case, the person in charge of processing the file shall check the quality of the evaluation in the offer collected by ARMP.

Thus, in addition to the control process that has been carried out at the level of the exploitation of the documents, in particular the evaluation report on the substance, form and criteria, the RCTD shall check that:

With regard to the evaluation grid:

1. it was adopted before the bids were opened;
2. it is the same as the one contained in the Tender File sold to bidders;
3. it matches the criteria and sub-criteria;

4. it has been drawn up in accordance with the provisions of the special regulations of the invitation to tender (RPAO);
5. the evaluation criteria are exclusively those made known to the candidates in the Tender File or by publication;

With regard to the evaluation itself, he shall also ensure that:

1. the scores obtained are consistent with the quality of the tender;
2. it has been applied to all candidates;
3. it has not been distorted;
4. the eliminated tenders did not comply with the requirements of the consultation file (DCE);
5. the candidates were treated fairly;
6. the technical ranking of the bids was carried out and is consistent with the results of the evaluation.

I.5. PETITIONS BETWEEN THE PUBLICATION OF THE RESULTS AND THE NOTIFICATION OF THE CONTRACT

At this stage, bidders who feel aggrieved may lodge a petition to challenge the award decision with the Petitions Review Committee, with copy to the PO/DPO, the Chairperson of the relevant Tenders Board, the body responsible for regulation and the ACMP, not later than **five (5) working days** after the publication of the results (Article 175 of the Public Contracts Code).

In accordance with the combined provisions of paragraphs 4 and 5 of the aforementioned Article 175, the ARMP may, in the event of a petition and as a precautionary measure, suspend the procedure.

This suspension can only be lifted by the ACMP after validation of the findings of the Petitions Review Committee.

At this stage, petitions concern:

1. contesting an award decision published by the PO/DPO;
2. non-publication of the award results by the PO/DPO;
3. challenging a decision on the unfruitfulness of the consultation;
4. non-communication of the extract from the bids evaluation report;
5. Refunding the bid bond;
6. Subscription of the draft contract.

I.5.1. Challenging an award decision published by the PO/DPO

When processing a petition challenging an award decision, the RCTD shall make sure that the evaluation of the bids has been objective.

In this respect, the reference documents to which the RCTD shall refer in order to formulate his opinion are:

1. The Administrative file;
2. The technical offer;
3. The financial offer;
4. The minutes of the Tenders Board.

When examining these petitions, the RCTD shall verify the following information through the exploitation of the bid evaluation subcommittee's Report and the bids of the tenderer(s) concerned:

a. In the Administrative file

1. the availability of all the administrative documents required in the Tenders file (TF) special regulations of the invitation to tender (RPAO);
2. the authenticity of the documents (validity, certification, competence of the signing authorities, etc.);
3. if the reasons for eliminating unsuccessful candidates for administrative evaluation are justified;
4. that not all bidders admitted are not subject to the sanctions provided for and that the sanction applied to those disqualified is deserved.

b. In the technical offer

1. the existence of addenda;
2. the exploitation of the offer of the bidder(s) concerned;
3. verification that the marks awarded comply with the scoring criteria in the grid (CV, reference, experience, etc.);
4. the calculation of totals and sub-totals calculated according to the formula given in the Tender File and the ranking.

c. In the financial offer

1. consistency between the prices in words and figures in the BPU;
2. consistency between the unit prices proposed in the BPU and those in the DQE;
3. the quantities used in the DQE to obtain the total amounts are consistent with those given in the Tender file and any addenda;
4. the relevance of the arithmetical corrections made by the Bid evaluation subcommittee;
5. the accuracy of the totals of the technical, financial and overall scores, in accordance with the Tender file formula;
6. the bid evaluation sub committee's ranking according to the lowest bidder procedure for quantifiable works, supply and service contracts or the best

- bidder procedure for non-quantifiable service contracts, including intellectual services;
- 7. the inclusion of all dues and taxes in the successful bidder's offer;
- 8. the amount of the award is compatible with the PO's budget.

d. In the minutes of the meeting for the adoption of the bids evaluation report and for proposing the award of the contract by the Tenders Board

Because this document sets out the committee's position on the evaluation of the tenders by the Evaluation subcommittee and the ranking of the candidates, it enables the person responsible for processing the file to ensure that the award proposal complies with the requirements of both the Tender file and the Public Contracts Code.

If a malfunction is recorded, the RCTD shall propose that the files be re-examined for non-compliance with the Bid evaluation sub-committee's ranking, or that the bids be re-evaluated if the committee's proposal violates the evaluation criteria.

I.5.2. Non-publication of award results by the PO/DPO

Denunciation for non-publication of award results by the PO/DPO

In the case in question, the person responsible for processing the file shall check whether:

1. the Board has examined the evaluation sub committee's bid evaluation report ;
2. the relevant Central Board has examined the evaluation sub committee's bid evaluation report;
3. the award proposal has been sent to the PO/DPO;
4. the procedure is not the subject of a precautionary measure.

If the grievance is justified, the RCTD shall propose to the Authority in charge of Public Contracts that it orders the PO/DPO to publish the results as soon as possible.

I.5.3. Challenging a decision on the unfruitfulness of the consultation

In case a decision is challenged on the unfruitfulness of a consultation, the RCTD shall first ensure, after a counter-assessment of the offers that:

1. no offer has been registered;
2. the financial proposal is within the estimated budget;
3. the technical bid is qualified.

If all this information proves to be not justified, the RCTD shall check:

a. In the technical offer

1. the existence of addenda;
2. the conformity that the marks awarded comply with the scoring criteria in the grid (CV, reference, experience, etc.);
3. the accuracy of totals and subtotals and check the calculation of overall scores according to the given formula and rank.

b. In the financial offer

1. consistency between the prices in words and figures in the BPU;
2. consistency between the unit prices proposed in the BPU and those in the DQE;
3. whether the quantities used in the DQE to obtain the total amounts correspond to those given in the Tender file and any addenda;
4. the arithmetical corrections made by the evaluation subcommittee;
5. the totals of the technical, financial and overall scores, in accordance with the Consultation File (DCE) formula;
6. the compliance of the ranking with the lowest or best bidder procedure;
7. the inclusion of all taxes and dues at the current rate in the bid of the proposed successful bidder;
8. the amount of the award is compatible with the PO's budget.

In the event of inconsistency, propose a re-evaluation of the bids with a view to restoring the bidder in good position in his rights through a regular award of the contract.

I.5.4. Non-communication of the extract from the bid evaluation report

If the Project Owner refuses to provide the petitioner with a copy of the extract from the bid evaluation report

The RCTD must check that:

1. the aforementioned evaluation report has already been examined by the Board or the technical bid evaluation report if the bids are open in two (2) stages;
2. the award proposal has been formulated and the decision published;
3. the petition concerned was lodged within five (5) working days from the date of publication of the said decision (**Articles 175 & 177 Public Contracts Code**).

If the petition is justified, the RCTD must contact the PO/DPO to ask him what has been done in response to this petition.

I.5.5. Refunding or release of the bid bond

Bidders who have been selected following the invitation to tender are invited to withdraw their offers (including the bid bond) once the results have been published.

In this respect, in the event of petition, the RCTD shall check that:

1. The award results have been published.
2. the petitioner is not the successful bidder;
3. the successful tenderer has not yet subscribed the said contract or the jobbing order within the period of fifteen (15) working days provided for in **Article 101 (4) of the Public Contracts Code**

In this case, the RCTD shall propose to refer the matter to the PO/DPO, with copy to the ARMP and the ACMP, to remind him of the regulatory provisions relating to the release of the bid bond (Article 29 (4) of the GAC/W).

In case the Agency receives a request from the contract holder for the release of his bid bond, the RCTD must first ensure that the contract holder has produced a final bond. If this is the case, the RCTD must prepare correspondence addressed to the PO, urging him to give right to the holder's request.

I.5.6. Non-subscription of the draft contract by the successful bidder

In the event the PO contacts the Agency to denounce the non-subscription of the draft contract by the contract successful tenderer, the RCTD must first check whether the statutory time limit for subscribing the contract has expired.

If this is the case, the RCTD must prepare a correspondence addressed to the PO suggesting that he shall cancel the award decision after formal notice has remained without effect in accordance with Article 101 (4) of the Public Contracts Code

II. CLAIMS BY CONTRACTING PARTNERS

During the execution of a public contract, the administration's contracting partners who feel aggrieved may lodge claims with the PO/DPO or the ACMP, as appropriate.

The ACMP takes his decisions on the basis of a proposal from the Petitions Review Committee, and after receiving the prior opinion of the ARMP (Article 186 (2) of the Public Contracts Code).

Requests from contracting partners may be made before the start of the services, during their execution or after their execution.

II.1. PETITIONS BEFORE THE COMMENCEMENT OF THE SERVICES

In accordance with the provisions of Article 123 (5), the PO/DPO must notify the OSD, which marks the start of the counting of the time required to perform the services, within 15 days from notification of the contract.

In the event of a claim concerning non-compliance with this provision (non-issuance or late issuance of the OSD), the RCTD shall ensure that:

1. the draft contract has been examined by the Board on the basis of the minutes of the Tenders Board and the reports of the IOs, where applicable, for work contracts awarded by mutual agreement procedure;
2. The contract has been notified and signed.

If necessary, the RCTD shall enquire from the PO/DPO the causes of the delay in notification and, where applicable, remind him of the relevant regulatory provisions and inform the ACMP.

II.2. DURING CONTRACT EXECUTION

During the execution of the services covered by a contract, non-compliance with the contractual provisions by one of the parties may give rise to complaints.

It should be noted that contract execution is monitored by the PO/DPO through the Contract Manager and the Contract Engineer. Their control by MINMAP through its external and unannounced inspections (Articles 47 (1) and 151 of the Public Contracts Code).

Complaints from contractors are addressed to the PO/DPO or the ACMP. However, based on the provisions of Article 48 (2-c) of the Public Contracts Code, the Agency may decide on the complaints, by giving opinions.

Complaints at this stage may relate, among other things, to:

1. approval of execution documents;
2. payment of start-up advances;
3. the inclusion of quantities in job cost sheets;
4. the inclusion of additional works;
5. payment of provisional detailed accounts.
6. revising or updating prices,

7. provisional acceptance of services;
8. termination of a contract, and;
9. remission of delay penalties.

II.2.1. The approval of execution documents

The execution draft is a technical file through which the contracting partner submits to the Contract Manager for approval the sequences, methods and materials that he proposes to use, as well as the calendar for the execution of the works.

The execution draft, including the plans and execution programme, must be submitted no later than one (1) month after notification of the OSD in accordance with Article 49 of the GAC/W (for work contracts), Article 9 of the GAC/S (for supply works) and Article 8 of the GAC/SPI (for Services and Intellectual Services).

If the request concerns the delay in approving the execution file, the RCTD shall ensure that:

1. the documents in question are available;
2. the contract provided for the submission of an execution draft by the contractor;
3. the contractor has submitted the execution draft within the deadline;
4. the PO has not reacted since the execution draft was submitted by the other party.

If necessary, the RCTD should enquire from the Project Owner to know the reasons for the delay in this approval.

II.2.2. The payment of start-up advances

The start-up advance is a payment that the administration's contracting partner may, upon simple request, make to the PO or to the DPO and without supporting documents before the services are carried out. The amount of the advance may not exceed 20% of the initial price inclusive of taxes of the works or service contract and intellectual services and 40% for supply contracts.

It is reimbursed and paid out of the sums due to the contractor during the execution of the contract and in accordance with the terms defined in the contract. It begins when the amount of the services performed under the contract, expressed as the basic price, or of the tranche, reaches or exceeds 40% of the initial amount of the contract, or of the tranche, and ends when this rate reaches 80%. If the contract does not give rise to

the down payment and is subject to a single payment, the start-up advance is deducted once from the single payment.

It must be 100% guaranteed by a bank establishment under Cameroonian law or a first-rate approved financial institution, in accordance with the instruments in force.

In the event of a petition for non-payment of the start-up advance, the RCTD must ensure that:

1. the granting of the advance has been stipulated in the contract (Art 28.5 of the GAC/W ,18 GAC/SPI);
2. the start-up advance has been requested (Article 28.1 of GAC/W.21 GAC/S);
3. the advance has been produced (Art 28.2 GAC/W).

When examining the file, if the petition is addressed to the PO and with copy to ARMP, he must send him a letter to ask for the outcome of the payment to the company, noting that the petitioner has complied with the regulatory provisions and reminding him of those of Article 160.1.6 of the Public Contracts Code, which specify that the administration's contracting partner may, upon simple request, obtain a start-off advance in accordance with the terms and conditions laid down in the Special Administrative Clauses.

II.2.3. Taking into account quantities in job cost sheets

The official in charge of the file should know that in accordance with the provisions of Article 151 of the Public Contracts Code, the monitoring of the execution of contracts is carried out by MINMAP, as a result, it has full jurisdiction over this matter and not ARMP.

However, in the event of petition, he shall put to the attention of the competent authority the malfunctions identified.

In this regard, he must first check whether:

1. the job cost sheets s comply with the contract;
2. the jo cost sheets are accompanied by supporting calculations establishing the total amount at the end of the period under consideration;
3. the works carried out are included in job cost sheets (Art 27.b GAC/W).

II.2.4. Non-payment of provisional detailed accounts.

In the event of a petition for non-payment of the detailed accounts, the person in charge of the file will check that:

1. the detailed accounts are in accordance with the outline established and are calculated cumulatively from the start of the works (Art 26.1.2 of GAC/W;
2. the detailed accounts have been signed and submitted within the deadlines (Art 30.1 of GAC/W ,19 GAC/SPI);

Afterwards, he shall send a letter to the PO requesting the level of payment of the contract, while drawing his attention to the payment of interests on overdue payments if the payment deadlines were not met [Art 31 of GAC/W] ,28 GAC/SPI.

II.2.5. Price revision or updating

Price revision or updating is codified in Article 147 paragraph 12 of the Public Contracts Code.

The procedures for managing cases of price revision or updating are examined by a standing committee made up of the body responsible for regulating public contracts which, in collaboration with the PO/DPO and the other administrations concerned (MINMAP, MINEPAT, MINCOMMERCE, MINFI and INS), verifies the statements of sums due [ESD] for updating and revising prices, duly approved by the Engineer and the Contract Manager, before any payment.

Therefore, as soon as the file is received, the RCTD must follow the procedure described below, depending on the case.

1 If the request concerns the updating of prices

The RCTD should note that price updating consists of an overall re-evaluation of the value of the prices of a contract based on a formula set out in the specifications, to take into account the changes in economic conditions when a period of six [6] months, fixed by current regulations, elapses between the date on which the tender prices are established and the contractual date on which the services begin.

It applies only once before the start of the execution of the services, in the event of a time lag in the execution of the services, or in the event of an extension of the contractual deadlines not attributable to the contract holder.

Then, to process the file, he shall:

a) Ensure that the following documents are available:

- the detailed account the Statement of sums due (ESD) for price updating, which must be approved by the parties concerned;
- the detailed accounts of services signed by the Engineer and the Contract Manager, in order make sure that the services have actually been carried out;
- the calculation sheet for the updating amounts, obtained by applying the updating coefficient to the amount of the detailed account of services actually carried out at a given period: this is used for comparison with the Committee's calculation elements;
- a copy of the contract, to ensure that the price updating modalities are explicitly set out in it. He shall check in the SAC, the conditions for updating prices, the existence of updating formula or formulae, parameters and indices as well as their origin, etc);
- The administrative order to commence (OSD) and other administrative orders to justify the extension(s) of the deadlines and the party to the contract responsible for the extension(s);
- the minutes of the tender opening session or, failing that, a copy of the tender notice and its various addenda (if applicable), with a view to determining the starting point for calculating the price updating;
- the minutes of the Commission de Constatation des Prix (CCOP), which is a technical body set up by Order No. 128/PM of 30 September 2005 and under MINCOMMERCE, to approve the values of the parameters (sheet metal, sections, reinforcing bars, cement, hydrocarbon nozzles, wood, sand and gravel, labour index, national consumer price index) used as calculation basis for public contracts, at specific periods;
- information on foreign parameters when the contract is in foreign currency.

b) Verifying the detailed accounts on the basis of the data contained in the aforementioned documents, by:

- Entering the values of the parameters and the amount of the detailed accounts in the Excel application;
- Verifying that the parameters used by the company are consistent with those in the minutes;

- Calculating the updating coefficient (the updating formula must not include a neutralization margin, but must set the updating threshold);
 - Calculating the updating amount (Art 147 (14): the price updating rate is capped at 25% of the contract amount, failing which the contract will be terminated, unless a waiver from the Authority in Charge of Public Contracts);
 - Establishing the differences between the values found by the company and those found by the committee;
 - Formulating the observations that led to these differences.
- c) Present the results obtained and the related conclusions to the Project Owner and the company, through a note to the Director General and draft letters.

2° If the request concerns price updating

The RCTD shall first remember that the price revision consists of re-evaluating each month, the amount of the services executed, on the basis of a formula established contractually, to take account of the variation in economic conditions between the date on which the tender prices were established and the date on which the services were performed during the period in consideration.

It applies to each detailed account issued by the administration's contracting partner.

The processing of a price revision detailed account follows the same procedure as the one described above, in addition to the details below.

- In the contract, the person responsible for processing the file verifies the duration of execution, it being understood that any contract for which the period of execution is at most twelve months shall not be the subject of a price revision (**Art 146 (2) of the Public Contracts Code**).

II.2.6. Acceptance of services

In case the PO refuses to accept the services, the person in charge of the file must ensure that a request for acceptance has been made and that no response has been received.

If this is the case, the RCTD shall:

- either convene a meeting with the parties, possibly with a view to the conciliation;

- or send a correspondence to the PO to enquire on the situation of the contract.

II.2.7. Termination of the contract

The PO may put an end to the execution of a contract before the period indicated by pronouncing a termination to the detriment of the company. Thus, based on the provisions of Article 186 of the PCC, the contracting partner who feels aggrieved may file a petition with the PO or with the ACMP to challenge this decision.

If the contract is terminated to the detriment of the service provider, the RCTD must ensure that the prerequisites for termination have been met, namely:

- A formal notice has been served on the contractor to comply within a period of at least 21 days in accordance with the provisions of Articles 180 and 181 of the Public Contracts Code, and that its assessment has not been satisfactory;
- A default report was issued;
- The termination decision has been notified to the contracting partner in accordance with Article 6 of the GAC/SPI.

In the event that these prerequisites have not been met, the person in charge of the file proposes, depending on the case, to revoke the said decision.

II.3. AFTER CONTRACT EXECUTION

At this stage, petitions may relate to:

1. Non-release of the final bond;
2. The non-release of the retention bond;
3. Request for arbitration for payment of interest on overdue payments;
4. Requests for remission of delay penalties;
5. Challenge of sanctions and requests for the lifting of sanctions.

II.3.1. Non-release of the final bond:

The **final bond** is a retention guaranteeing full execution of the services. It is constituted within the 20 calendar days following notification of the contract, and before the first payment. It is valid until provisional acceptance of the services and refunded in accordance with the procedures set out in the general administrative clauses, subject to any derogations that may be introduced by the special administrative clauses. (Art 137, 138 and 139 of the PCC); 29.5 and 41.1 of the GAC/W.

The final bond may not be less than 2% or more than 5% of the initial amount of the contract, increased by the amount of any amendments, if applicable.

In the event of petition, the person in charge of the file shall make the following verification:

- Whether the contract includes a guarantee period (Art. 70 of the GAC/W);
- Whether the documents required for the repayment of the retention bond or the release of the guarantees have been submitted within the deadlines (Art 29.6 GAC/W);
- If the time limits for the payment of the retention bond have been respected (Art 29.4 GAC/W);
- Whether provisional acceptance has been declared.

Then, if the petition is addressed to the PO with copy to ARMP, he must send a correspondence to the PO requesting the outcome of the release of the guarantees, in particular, the issuance of release orders (Article 29.4.5.6 of the GAC/W) and the final bond (Article 139.4 of the Public Contracts Code).

II.3.2. The non-release of the surety bond:

The surety bond or the surety in lieu thereof is a surety that guarantees the quality of execution. It is also known as a retention bond and is deducted from the administration's contracting partner's down payments and when the contract includes a guarantee or maintenance period. It may not be more than 10% of the initial amount of the contract, plus the amount of its amendments, if applicable.

It is not required for intellectual service contracts.

It is released at the expiry of a period of 30 calendar days and following a release order issued by the PO/DPO from the final acceptance of the works, supplies or services after the expiry of the guarantee period (Art 141 of the Public Contracts Code).

In the event of petition, the person in charge of the file shall ensure that:

- The contract includes a guarantee period;
- the release period has expired;
- The release order has been issued by the PO;
- the request has been made;
- the final acceptance has been declared.

Subsequently, he must send a letter to the PO to ask what action has been taken in response to the petitioner's letter, in the light of the provisions of Article 141.par 1.b and 2 of the Public Contracts Code, which stipulate, on the one hand, that the retention bond shall be released following a release order issued by the PO and, on the other hand, that upon expiry of a period of 30 calendar days, the competent body shall be bound to refund the sureties or the retention bond upon simple request from the administration's contracting partner.

II.3.3. Request for arbitration for payment of interests on overdue payments:

The person in charge of the file must make it clear to the petitioner that only the PO is competent for this file.

However, the person in charge may write to the PO to ask what action has been taken on the company's request, with copy to the company, or urge the company to take better action.

II.3.4. Requests for remission of delay penalties

The delay penalty is a fine imposed on any contractor who has not performed the services covered by the contract of which he is the holder within the time limits set out in the contract.

In accordance with the provisions of Article 168 (3) of the Public Contracts Code, the remission of delay penalties may be ordered by the PO only following favourable opinion from ARMP.

In this case, the RCTD must ensure that the necessary documentation is available, notably:

- the contract;
- the start-up Administrative Order and its notification;
- administrative orders (extension; suspension of deadlines) where applicable;
- acceptance reports (technical acceptance, provisional acceptance), lifting of reservations where applicable ;
- detailed accounts, and;
- the request for acceptance of services, if applicable.

If the above-mentioned documents are not available, the RCTD must write to the PO/DPO to request that they be sent.

Using this documentation helps to:

1. ensure that the delay actually occurred;
2. ensure that the formulae contained in Article 168 (1) ab of the Public Contracts Code were applied to determine the amount of penalties, if applicable.
3. to assess the relevance or otherwise of the factors justifying the delay (cases of force majeure as defined in the provisions of Article 75 of the GAC/W; endogenous and exogenous causes [climatic context, causes attributable to the administration that led to the slippage of deadlines, security, etc. ...]).

In some cases, the RCTD may request additional information from the PO.

The RCTD issues the ARMP's opinion in a letter addressed to the PO/DPO, with a copy to the petitioner, for a total or partial remission, or for maintaining the disputed penalties.

In any case, the partial or total remission of delay penalties may only take place after the services have been accepted or the supply has been delivered in full (Article 54 GAC/Supplies].

NB: It is important to note that, irrespective of the penalties for contractual deadline overrun, the Special Administrative Clauses may provide for specific penalties for failure to comply with technical or safety provisions (Article 169.1 of the PCC) or late submission of documents.

II.3.5. Challenging sanctions and requests for the lifting of sanctions

It should be noted that this area is reserved for the Authority in charge of Public Contracts, which may apply sanctions as appropriate to private and public sector stakeholders in accordance with the provisions of Articles 191 to 195 of the Public Contracts Code.

If sanctions are contested, the person in charge of the case should direct the petition to the person who imposed the sanction, generally MINMAP;

NB: It should be recalled that all the cases listed above for which the ARMP is required to give an opinion do not fall within its remit, but rather within that of the PO. For this reason, the Agency is always obliged to turn to him to ensure its role as supervisor and facilitator of the system as defined in the provisions of Article 48 of the Public Contracts Code in its entirety.

III. DISAGREEMENTS

Disagreements may arise between the PO/DPO and the relevant Tenders Board, between the PO/DPO, between the Central Contracts Control Board and between the Internal Tenders Board and a bidder, and between the CER and the Authority in Charge of Public Contracts.

III.1. BETWEEN THE TENDERS BOARD AND THE PO

In case the PO does not agree with the Board's award proposal, it refers the matter to the ACMP, which may request the opinion of the body responsible for regulating contracts.

The Agency has 7 working days to give its opinion (Article 178 (3) of the Public Contracts Code).

If the opinion of the regulatory body is requested, the person responsible for processing the file must ensure that:

1. the re-examination of this procedure by the board has been requested;
2. the complaints against the Board are justified or not.

If the re-examination is not requested by the PO/DPO, the person in charge must recommend it. On the other hand, if the re-examination has been requested and the Board's conclusions violate the regulatory provisions, the person in charge must propose to the Authority in charge of Public contracts (ACMP) that it send the board a letter of observation for failure to effectively carry out its mission as a technical support body for the PO, while proposing that the procedure be continued.

III.2. BETWEEN THE CCCB AND THE PO

Similarly, once the results of the deliberations have been reviewed and notified to the Project Owner by the CCCB Chairperson, the procedure may continue if the Project Owner approves. However, if the disagreement persists, the PO must notify the CCCB of his final decision within 5 calendar days from the date of receipt of notification of the CCCB's final opinion (**Art. 179.2 & 3**).

Beyond this period, the Chairperson of the CCCB forwards the file to the ACMP, which may request the opinion of the body responsible for contract regulation, which has a period of 7 days to give its opinion (**Art. 179.4 & 5**).

Here, the RCTD shall check that :

1. the Central Contracts Control Board's award proposal complies with the requirements of the Tender File ;
2. the re-examination prescribed by the PO is based on relevant reservations;
3. the period of 7 working days prescribed for referral to the Central Contracts Control Board has been respected.
4. The Central Contracts Control Board has sent its new proposal to the PO/DPO

[In the event of non-compliance, see the disagreement procedure between the Tenders Board and the PO/DPO].

III.3. BETWEEN THE INTERNAL TENDERS BOARD AND A BIDDER

A disagreement between the Internal Tenders Board and a bidder may arise in the event of an abnormally low bid.

This case is governed by the provisions of article 105 of the Public Contract Code, which allows a Tenders Board to propose to the PO or DPO the rejection of offers deemed to be abnormally low.

In this case the RCTD shall check that:

1. The candidate has been invited to submit justifications in writing;
2. The said justifications have not been deemed acceptable by the Tenders Board by making a study of:
 - The production of the price sub-detail (check its content and the adequacy of the prices with the proposed construction methods and/or timetable);
 - Product manufacturing methods;
 - The comparative advantages or favourable conditions available to the bidder;
 - The originality of the project or work;
 - The provisions relating to working conditions.

If the rejection is maintained because the justifications have not been provided or are unacceptable, the RCTD shall ensure that :

1. The body responsible for regulating public contracts has examined the supporting documents and submitted its findings to the PO/DPO within 7 days from referral;
2. The PO/DPO has taken into account the opinion of the aforementioned body in taking his decision.

In this case, the RCTD prepares a draft letter to inform the tenderer that his request cannot succeed.

If, on the other hand, he realises during his investigations that the rejection was abusive or that the rejection procedure was not followed, he prepares a note which he sends to his hierarchical superiors with the justifications for his position and a draft letter addressed to the Board for the reinstatement of the rejected bids in the procedure, the said draft letter being subject to the sanction of his hierarchical superiors.

III.4. BETWEEN THE PETITIONS REVIEW COMMITTEE (PRC) AND THE AUTHORITY IN CHARGE OF PUBLIC CONTRACTS (ACMP)

A disagreement between the ACMP and the PRC may arise when the Authority in charge of Public Contracts does not approve a proposal made by the Committee.

This case is governed by the provisions of Article 18 of Order 413/A/PR/MINMAP of 8 December 2020 on the organization and functioning of the Public Contracts Petitions Review Committee.

In this case the RCTD shall check that:

1. the ACMP has returned the file within five (5) calendar days to the Committee for re-examination;

2. the Committee has re-examined the said file and has formulated its proposal once again within a period of five (5) calendar days.
3. The Committee's proposal serves as same opinion in the event of persistent disagreement.
4. The ACMP has forwarded for publication in the JDM, within forty-eight (48) hours from their signature, the decisions marking the examination of the petition.



CONCLUSION

The purpose of this didactic nature guide is to provide stakeholders in charge of the regulation of the public contracts system with useful indications for the exploitation of the documentation collected, while recalling the regulatory provisions to which they shall refer for corrective and didactic measures when they detect malfunctions, as well as the information they will have to extract from it in order to feed the data bank.

It also gives them guidance on how to examine bidders' petitions and requests from the administration's contracting partners, as well as those relating to the handling of disagreements between Project Owners and Contracts Boards to give relevant opinions.

