



# **E-Tendering Requirements for MDB Financed Procurement**

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## Introduction

Borrowing countries are increasingly inclined to use electronic procurement systems and means for processing and managing activities funded by the Multilateral Development Banks (MDBs). For the purposes of the following specifications e-GP is defined as the use of information technology systems and networks by governments in conducting their procurement relationships with suppliers and contractors for the procurement of works, goods, services and consulting services required by the public sector.

All stages of the procurement process can benefit from electronic processes, including pre-qualification, advertising, preparation and issuance of bidding documents, receipt of bids, bid opening, evaluation of bids, clarification and modification, notification, and publication of results.

However, it is not necessary for an e-GP system to include all procurement functions. For some steps in the procurement processes used by governments online technology is extremely efficient (such as for advertising of bid opportunities). In other instances online technology and its applications are more problematic and uncertain, such as for authentication where governments are often still considering their legislative approaches (if any) and management and security remain as issues. It is possible to apply e-GP to selected steps in the procurement process, adding more steps to the system in a phased approach as resources, legislation or developments permit.

Where e-GP systems are intended to be used for **bidding for goods, works, services or consulting services under MDB financed projects**, using any of the approved bidding processes, the MDB unit administering the project shall, consistent with any approved delegations, evaluate the e-GP system features, standards and operations to ensure it satisfies the conditions that follow in this guide. Requirements will also be provided for online reverse auctions and e-purchasing. These requirements are intended to be applied by MDB officers under delegation detailed separately.

## **Key Principles of Administration of MDB Funded Activities**

The MDBs recognize and encourage individual governments to find their own paths in the development and implementation of e-GP and the MDBs have provided considerable resources to facilitate such processes. The resulting systems will reflect the specific requirements and priorities of each government for which there is no single ‘right’ solution. However, in recognizing these individualities the MDBs also have responsibilities to their donors, other borrower countries and their own governance rules. These responsibilities mean that the MDBs have some minimum standards and qualities that must be met if such electronic systems are to be applied to the activities that they fund – just as the MDBs have mandatory processes for traditional paper-based procurement.

These minimum standards and qualities are designed solely to ensure that basic standards of good governance apply to these resources.

What are these basic standards that the following requirements are aimed at safeguarding? The MDBs require that the key principles of:

- transparency,
- non-discrimination,
- equality of access,
- open competition,
- accountability and
- security of process

must apply to the deployment of these resources.

The following requirements are designed to support these principles for MDB related activities. Translating these core principles into operational effect has implications for variables such as:

- bid advertising,
- technological neutrality,
- technical standards for interoperability and security,
- some processes such as ensuring good audit trails,
- cost and ease of participation.

Should any government agency believe that it should be exempt from any of these core principles, or that their systems satisfy these requirements in other equally satisfactory ways then they can discuss the options with the members of the MDB E-GP Working Group.

These requirements supplement and do not replace existing requirements that apply to traditional procurement processes for MDB funded activities.

## E-Bidding Requirements

### 1. System Access

Where e-GP is to be applied to MDB funded activities or programs it shall have the following minimum features:

- 1.1. System access shall be open, equal and unrestricted to all prospective bidders / consultants and members of the public. Those who want to submit information or receive online alerts or notifications of amendments or clarifications shall be offered an online enrollment facility. Enrollment<sup>1</sup> shall be free.
- 1.2. The principle of single sign-on shall apply. Single enrollment shall allow bidders/ consultants the multiple use of the same electronic system for different projects from different parts of the government.
- 1.3. The e-GP system shall be interoperable through open standards with ICT products in common use. The system shall be an Internet based approach accessible by users through readily available and commonly used browser software.
- 1.4. Downloaded documents shall be readable through open standards with a range of commonly used office software. If specialized software is necessary, this shall also be downloadable (e.g. software to read PDF documents) free of charge and compatible with commonly used system and office software. Similarly, the requirements for electronic submissions, where these are provided for, shall require only open standard interfaces with commonly used office software, or the submission software shall be available online from the Contracting Authority's system as required.
- 1.5. The system shall perform reliably and securely in time-sensitive, commercial application.

The principle of non-discrimination between paper-based and electronic information and transactions shall, as far as practical, be reflected in the system. Contracting Authorities shall have in place the transitional option of paper-based procurement for bidders/consultants who wish so or do not have access to e-GP.

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<sup>1</sup> There is no consistent international definition of what is, in many cases on the internet, referred to as 'Registration'. In some countries 'registration' for government procurement requires a legalistic offline authentication process. For the purposes of this guide 'enrolment' refers to an online process of providing some basic identifiers such as user name, contact name, company name, type of business, with which the entity will be 'enrolled' in the e-Bidding program and eligible to receive Bid documents, bulletins, etc, and may be issued with a password. Many countries will identify this with 'registration'.

## 2. Advertising

Electronic advertising of procurement opportunities will be considered to satisfy MDB procurement advertising requirements by meeting the following conditions:

- 2.1. The advertisement shall be posted on a publicly accessible web site (or the Official site where this exists) that is well known nationally, well maintained, functional, and affords free and unrestricted access.
- 2.2. Concurrent advertising may be also required on additional sites and media according to specific requirements of individual MDBs' procurement regulations<sup>2</sup>.
- 2.3. The bidding period shall be measured from the date of publication on the required sites / media, and where these dates vary the date of publication shall be whichever is later. A secure log of these entries shall be available for audit as required.
- 2.4. Where bidding is restricted or subject to pre-qualification, this shall be clearly disclosed in the bid advertising. The bid advertisements and results disclosures shall not be restricted.

There shall be no material difference between the paper documents and those advertised online.
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## 3. Correspondence, Amendments, Substitutions and Clarifications

Correspondence with bidders during bid preparation may be done electronically so long as print correspondence is used for bidders who request it. Copies of all correspondence shall be kept for audit and the bid evaluation report:

- 3.1. All clarifications and amendments or substitutions of the bidding documents, as well as any pre-bid conference minutes, shall be posted simultaneously onto a bid tracking page of the bid advertising website that is freely accessible to all. Bidders who have already expressed an interest should be directly informed electronically of any such postings.
- 3.2. Amendments or substitutions by any official will be tracked and recorded for audit. Systems shall ensure that only authorized changes can be made.
- 3.3. In case of any amendments or substitutions to the Bidding Document/RFP by the Contracting Authority, the Contracting

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<sup>2</sup> The procurement policies of the Asian Development Bank (ADB), the Inter-American Development Bank (IDB) and the World Bank (WB) broadly consistent but contain some differences that need to be taken into account – see for the ADB *Guidelines for Procurement Under ADB Loans* at [www.adb.org](http://www.adb.org), for the IDB see the *Project Procurement Information* on [www.iadb.org/procurement](http://www.iadb.org/procurement) and for the WB *Guidelines Procurement under IBRD Loans and IDA Credits* at [www.worldbank.org/procure](http://www.worldbank.org/procure).

Authority shall not replace the Bidding Document/RFP by a new one, but provide such changes by means of an additional document in line with the same distribution mechanism as for the Bidding Document/RFP.

- 3.4. Contracting Authorities shall track receipt by bidders/consultants when distributing pre-bid amendments, substitutions and clarifications online.
- 3.5. Where Contracting Authorities stage online pre-bid conferences and clarifications, including for example online conferencing and chat facilities, such facilities shall not function after the bid submission deadline.
- 3.6. Correspondence during bid evaluation for the purpose of clarification may also be done electronically with the normal restrictions against modification of the substance and price of the bid. Any correspondence of this type shall be directed through the Chairperson of the evaluation committee. Confidentiality of the bid evaluation process shall be maintained.

#### 4. Bidding Documents

Contracting Authorities may distribute Bidding Documents/RFPs by using electronic systems (download from website) or means (send as email attachment, also floppy discs or compact discs or other devices if appropriate).

- 4.1. The use of Standard Bidding Documents/RFPs is required. Bidding Documents/RFPs must be provided to the MDB in an approved language and, if required, in print copy for review and approval.
- 4.2. While Contracting Authorities may offer the distribution of Bidding Documents/RFPs in generally available electronic formats (e.g. xml, html, doc, rtf, xls, ppt), they shall ensure that these documents can be traced to the Contracting Authorities' legally binding Bidding Documents/RFPs in paper or electronic format.
- 4.3. Contracting Authorities shall ensure the integrity of Bidding Documents in electronic format<sup>3</sup>, and their online publication. Amendments shall be similarly secure and stored with the Bidding Document. Contracting Authorities shall inform bidders/consultants where the legally binding Bidding Documents/RFPs can be accessed.

There shall be no difference between electronic and print versions of the Bidding Documents/RFPs. Splitting documents into combinations of electronic and printed portions should be avoided.
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<sup>3</sup> The ADB also requires a paper copy

## 5. Submission of Bids/Proposals

Bids/proposals may be submitted electronically, provided this is available, or in paper format. Contracting Authorities may offer enrolled bidders/consultants the use of electronic systems (upload through website) to submit bids/proposals conditional on the following:

- 5.1. There shall be security arrangements<sup>4</sup> to ensure confidentiality (i.e. protect privacy by allowing only authorized persons access to the content at the authorized time) and integrity (i.e. not allow any modification) of bids/proposals in electronic format.
- 5.2. Bids/proposals submitted online shall be virus scanned by the Contracting Authority before being uploaded and accepted into the online bid box, and where this causes a bid to be rejected the bidder/consultant shall be notified immediately.
- 5.3. Online submissions shall be received into an electronic bid box and maintained to high standards of security for long term record-keeping and audit. At no time shall bids/proposals be in unencrypted format. Copies taken and decrypted for bid evaluation purposes shall not affect the integrity of the original record.
- 5.4. Contracting Authorities shall ensure that the date and time of an automated closure of an electronic bid deadline can only be set simultaneously by at least two authorized persons. There must also be secure procedures to ensure that the settings are in accordance with international time-zone standards. A secure log of these processes shall be available for audit as required.
- 5.5. Bidders/consultants shall be advised that their bids/proposals must be readable through open standards interfaces.
- 5.6. Bidders/consultants shall be allowed to submit modifications to bids/proposals or withdraw previously submitted bids/proposals electronically up to, but not after, the time of the bid submission deadline. Receipt of modification or notice of withdrawal including the date and time must be acknowledged, and shall also be done electronically.
- 5.7. Contracting Authorities shall accept only those bids/proposals in electronic format the submission or modification of which is completed at the time of the bid submission deadline. Receipt of electronic submissions, including the date and time, must be acknowledged immediately, and shall also be sent electronically.

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<sup>4</sup> see Section 9

- 5.8. The date and time for the receipt of Bids/proposals shall be the same for both regardless if submitted electronically or in paper.

## **6. Bid Securities**

In order to facilitate the procurement process when using electronic systems or means, bid securities are not encouraged. Contracting Authorities may employ other measures, such as requiring bidders/consultants to sign a declaration and/or sanctioning bidders who do not honor bids.

## **7. Public Bid Opening**

Contracting Authorities may use e-GP to open bids/proposals:

- 7.1. Electronic and or print bids if submitted shall be opened in a public opening at a location and time (deadline) designated in the bidding documents.
- 7.2. Bidders/consultants who choose to do so may attend the bid opening, are invited to sign a record of attendance. Information read out at the bid opening (prices, offered discounts, and pertinent information) shall be simultaneously posted onto a web site. A record of the bid opening must be kept in print copy and signed by individuals authorized to initiate the opening. Contracting Authorities shall make freely available the bid/proposal opening minutes by means of a website download.
- 7.3. Bids/proposals in electronic format shall be protected against access by unauthorized persons until the publication of the contract award.
- 7.4. Contracting Authorities shall open bids/proposals in electronic format first followed by the bids/proposals submitted on paper.
- 7.5. Contracting Authorities shall ensure that, for RFPs, financial proposals in electronic format shall only be accessed and opened after the evaluation of the technical proposals. The opening of each stage shall be subject to the same transparency as detailed in 7.2, 7.3.

## **8. Bid Evaluation and Contract Award**

The Contracting Authority may use pre-approved automated evaluation processes so long as the evaluation aligns with the criteria established in the bidding documents; is consistent with the principles of economy, efficiency, equal opportunity, and transparency; does not violate other MDB requirements (such as restriction on price bracketing, price negotiation, etc.); and results in contract award to the lowest-evaluated, responsive bidder/consultant.

- 8.1. A bid evaluation report (BER) shall be prepared as required by the MDBs<sup>5</sup>. It may be transmitted electronically for review if an MDB requests (including post review). The BER shall, on request, contain scanned copies of the signed record of bid opening, advertisement, and other documents for which copies are required. A print copy of the BER shall be kept on file.
- 8.2. Contract awards shall be published online consistent with bid advertising. (See Section 2).

## **9. Information Security Management**

- 9.1. For any e-GP processes engaged internally or through third parties, the Contracting Authority shall develop, maintain and implement an information security management system that conforms with international standards<sup>6</sup> for information management and takes account of recognized best practice, including but not limited to asset security, access security, human resource security, operations management and business application controls, documentation and script sufficiency and security, physical and online security, business continuity, record keeping and compliance.
- 9.2. There shall be no outstanding audit issues that represent material risk to the integrity or security of any project.
- 9.3. Contracting Authorities shall indicate in the Bidding Documents / RFPs procedures to be followed in the case of any failure, malfunction, or breakdown of the electronic system used during the procurement process. Contracting Authorities shall not accept any responsibility for failures or breakdowns other than in those systems strictly within their own control.
- 9.4. E-GP systems and information security shall ensure that secure records are kept of every process, procedure, transmission, receipt, transaction in terms of the content, executing individual and authorisations, time and date. These records shall be kept for at least two years after the closing date of the Loan Agreement and be made available for audit on request.

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<sup>5</sup> For ADB this will be compliant with *Guide on Bid Evaluation*

<sup>6</sup> such as ISO/IEC 17799:2001, AS/NZS 7799.2:2003, HB 231:2000

## **10. Authentication**

Where a Digital Certification/Signature is required the following shall apply:

- 10.1 The certification process shall certify bidders for a reasonable period of time (at least one year) and bidders shall not be required to request a certification for each bidding process.
- 10.2 The certification process shall be kept open permanently allowing bidders to submit the request for certification at any time in order to allow them to register in advance for future bidding processes.
- 10.3 The certification process shall allow bidders to take all actions required for their certification within their own countries, without the need to travel abroad.
- 10.4 The certification process shall accept an electronic signature or a digital certification/signature issued by certifying authorities within the country of the bidder, or the process shall accept submission of online or offline documentation for certifying the authenticity of the bidder representative, accepting such documentation that can be obtained under commonly used procedures in the country of the bidder (for example, no notarization in consulate or embassy shall be required).
- 10.5 The certification process shall not require bidders to submit mandatory information with origin outside the bidders own country.

## **11. Payment**

The most effective and efficient way to adopt e-procurement solutions is to allow free and open access to all information and to allow bidders to submit bids without any charges. However, it is recognized that some countries may wish to charge for some operations and therefore, when payment is required the following shall apply:

- 11.1 Specific Procurement Notices (SPNs): bidders shall have open and free access to all SPNs. No registration, certification or payment shall be required.
- 11.2 Bidding Documents (BDs): although allowing bidders to have free and open access to reading and downloading BDs represents recommended practice, borrowers may chose (i) not to charge for access (reading) of BD but charge for downloading; or (ii) charge for both reading and downloading. For charging, borrowers shall accept payments under one of the following options, at bidders' choice: (1) payments online; or (2) payments by any form of transfer of payment, in which case such time for payment be added to the minimum time for the submission of bids.

- 11.3 Submission of bids: bidders shall not be required to make any payment as a pre-condition to be allowed to submit a bid. In countries using transaction fee systems, the payment may be included in the registration fee or bidders could be asked to have an account and be invoiced by the system for the fees resulting from the number of bids submitted during a period (month or year).
- 11.4 In cases where bidders pay a fee, bidders shall be offered an electronic payment facility (e.g. electronic check, credit card) to avoid situations where bidders incur charges online, but must visit an office to pay for them.

## **12. Other Considerations**

National legislation indicates that, with the procurement guidelines of the MDBs prevailing, any discrepancies in the applications of any of the requirements in this document shall be subject to prior approval by the MDBs.

Executing agencies may use e-GP systems operated by a third party under a service contract arrangement. Third party service providers and their subsidiaries or parent companies shall be ineligible to be awarded contracts on procurement processes that are undertaken through the said e-GP system. Irrespective of who operates the system all requirements and conditions of this Guide shall apply.

The e-GP requirements presented above support the core framework principles already described. The requirements apply where countries intend to apply e-GP to any MDB financed procurement. If particular circumstances arise in any Contracting Authority country that cause the e-GP requirements to be in conflict with these principles then the circumstances shall be referred to the MDB joint E-GP Working Group for interpretation.

The application of borrower country electronic systems to MDB financed activities shall comply with the above requirements. Borrowers are urged to review their electronic arrangements before approaching the MDBs for approval of such applications, at which time the relevant MDB shall review and sign-off approval for the borrower to proceed.