

Procurement Evaluation and Moderation – ‘Golden Rules’

Public procurement law is set to undergo significant change under the Procurement Act 2023 (the “**Act**”) and accompanying Procurement Regulations 2024 which will come into full force and effect on 28 October 2024. This guidance has been prepared to help Contracting Authorities conduct lawful evaluation and moderation processes as part of their procurements with a particular focus on the requirements under the new Act.

The principles below broadly cover the following themes:

1. record keeping throughout moderation and evaluation process and thereafter;
2. application and use of the published award criteria and evaluation methodology; and
3. the substance of the notes taken to support the scores awarded.

Key principles for the evaluation stage

For the evaluation stage of the procurement, evaluators **should**:

- raise any clarifications as soon as possible (through the formal procurement processes documented in the associated tender documents);
- read the allocated questions and base the score given solely on the information provided;
- evaluate the tender responses independently of other evaluators (or any other person);
- state the scores given and provide evidence and examples to support the scores awarded;
- be clear and succinct and write in plain English (noting the evaluators’ justification and comments will be used to inform the moderation meeting and feedback in the Assessment Summaries);
- ignore any pre-conceived ideas/biases/thoughts. Evaluator’s evaluations should be based solely on what is in the tenderer’s submission;
- ensure that the evaluation is their own work, do not discuss it with other evaluators or colleagues; and
- retain any notes taken, sign the notes and pass them to the relevant commercial / procurement contact within the Contracting Authority for retention and audit (if required). Note that these notes may be disclosed in the event of a challenge.

For the evaluation stage of the procurement, evaluators **should not**:

- compare tenderers’ responses;
- destroy any notes;
- read between the lines (for example, “*I know this tenderer has done x, y, z in the past*”);
- introduce new or undisclosed award criteria;

- score individual elements of a response to a single question and then use an average or other method to arrive at an overall score for the question; or
- meet or call to discuss with tenderers the submission directly (unless as part of a formal procurement procedure).

Key principles for the moderation stage

For the moderation stage of the procurement, those attending the moderation meeting (i.e. the evaluators and the moderator) **should**:

- follow the stated process (i.e. the process set out in the associated tender documents);
- proceed by reference to the pre-established scoring criteria;
- not be in a form of negotiation compromise between evaluators;
- record a full, transparent and fair summary of reasons leading to consensus scores by reference to scoring criteria;
- agree a single consensus score – not just an average score;
- ensure timely progress of independent scoring for respective work streams;
- ensure adequate time is allocated for moderation – it is a time-consuming (but important) part of the process;
- ensure full justification for moderated scores are provided, including strengths and weaknesses; and
- consider using a moderation template for consistency.

For the moderation stage of the procurement, moderators **should not**:

- evaluate tenders – this is the role of the independent evaluator; or
- change a score for a stage of the evaluation that has been closed down after an agreed score has been reached.

Please note that the contents of this document should be treated as guidance only and each procurement should be considered on the facts of each case. If you are a Contracting Authority considering how the content of this guide might affect your organisation, please contact a member of DWF's national Procurement Centre of Excellence team to discuss how we might assist you.

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