



Training: Construction contracts

9th - 12th July 2018

in Addis Ababa

by Kateryna Zwarg

& Sedef Agbal

DAY 1



Introduction: who are we?






Introduction: E240 in E200



Immanuel Gebhardt
(Head of department
Procurement – Contracting,
E200)



Gabriele Sistig
(Team leader E240)



Dietmar Ahle
(Senior)



Angela
Ferreira
Moreira



Calle
Bogislav
Plantiko



Kateryna
Zwarg



Silke
Hertel



Sedef
Agbal

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Introduction: who are you?



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Rules for the training?

What do you expect from the training?

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Agenda for today

Time	Activity
14:00 – 15:30	Welcome Introduction, rules, expectations Definition “construction”, regulations Procurement principles in GIZ, compliance
15:30 – 15:45	Coffee break
15:45 – 17:00	Team work “how does the process look like now?” Overview of the whole process (7 steps) Questions & answers

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Construction works:

- build, maintain, change and demolish the physical structure.

(Physical structure is connected with the ground and built out of construction materials or elements).



Examples construction works:

- New building and related planning
- Reconstruction, modification and renovation of buildings (GIZ Offices, Partner Offices)
- Changes to technical fittings in buildings (fire protection)
- Underground works (tunnels, sewage drain)
- Infrastructure and Civil engineering (bridge)
- Landscaping works





Construction contract vs. Procurement of goods (different contact persons and processes)



Construction contract vs. Procurement of goods

Value of works > value of goods

**or when the works are too specific and
could be done just by the construction
company under the construction
contract**



Construction contract vs. Procurement of goods Pre-fabricated container school in Iraq



Regulations

- General Agreement between GIZ and BMZ
- Assignment from BMZ or other donors (EU)
- German procurement law (GWB, VgV, VOB/A)
- O+R, Procurement and Financing, Contracts with construction companies and architects / engineers





Compliance

Compliance has assumed a very central role in economic life generally. The concept can also be termed '**observance of rules**', and for us at GIZ means correct application of:

- a) internal regulations (**O**rientation + **R**ules, the Code of Conduct),
- b) external regulations (such as national and international laws),
- c) self-imposed obligations (e.g. GIZ Corporate Principles, policies) **on the basis of integrity.**



The following principles apply to all procurement by GIZ:

- Economic efficiency and suitability
- Competition
- Equal treatment of bidders
- Transparency
- Social and environmental compatibility





When you get any “special offer” from a bidder ask yourself if he would offer this to you as a private person?

What is so bad on corruption?

- 1) Destroying the market and its development (price, quality...)
- 2) Reputation risks for GIZ
- 3) Any more?



Time for a break???





Team work

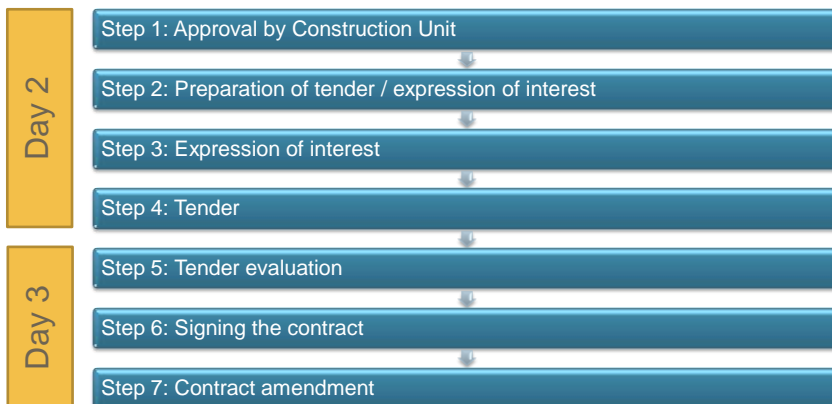


Please discuss in a group:

- What are the main steps of construction tender?



Process „Construction contracts”





Done for today! Questions? Feedback?



Training: Construction contracts

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DAY 2





Agenda for today

Time	Activity
9:00 – 10:30	Questions & answers Step 1: Approval by Construction Unit Step 2: Preparation of tender / Expression of interest
10:30 – 11:00	Coffee break
11:00 – 12:30	Step 2: Preparation of tender / Expression of interest incl. discussion and team work
12:30 – 13:30	Lunch break
13:30 – 15:00	Step 3: Expression of interest Step 4: Tender
15:00 – 15:30	Coffee break
15:30 – 17:00	Step 4: Tender incl. discussion and team work Summary of the day Questions & answers



Step 1: Approval by Construction Unit (not relevant for SDR-program)


Project team

- Send the filled release approval + all relevant technical documents (priced BoQs, drawings, specifications, shortlist etc.) to contact person in Construction Unit G230 at HQ
- Keep the received approval for tender files



Construction Unit at HQ (G230 Anke Reichert)


- Approval (Release approval for construction measures) also called NOC (non-objection-certificate)



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Step 1: Approval by Construction Unit
(G230, Ms. Anke Reichert)

Approval needed if construction related costs (architects + construction) are over 100,000€ in the whole project



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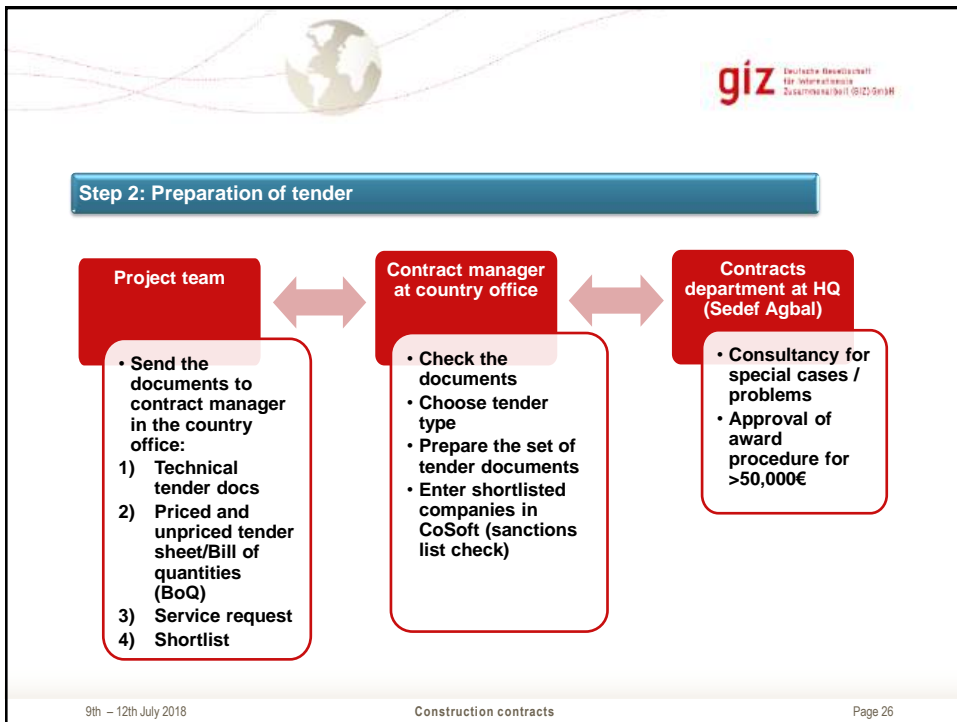
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Step 1: Approval by Construction Unit

Why do we need it?

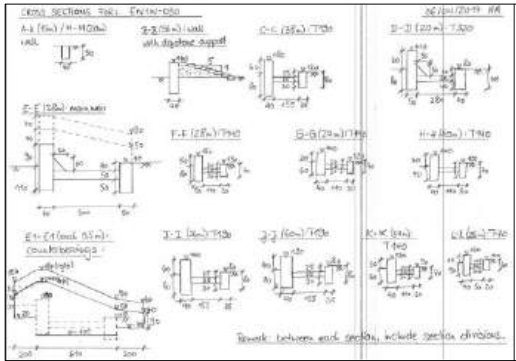
- Construction measures abroad using German public funds are sovereign tasks and need a permission of the German Federal Ministry of Environment and Construction (BMUB)
- GIZ has a special authorization by BMUB for independent construction measures abroad
- G230 holds due to the construction-specific know-how the mandatory and supervisory function in GIZ (Construction in International Cooperation, also called Construction Unit)

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Step 2: Preparation of tender



CHINA SECTIONS TENDR (2016-2018)
A-1 (16m) / H-1 (16m) with diagonal support
C-E (24m) / T-10
B-2 (20m) / T-20
E-1 (20m) / T-10
F-E (28m) / T-10
G-5 (20m) / T-10
H-4 (20m) / T-10
E-1 (20m) / T-10
T-1 (20m) / T-10
G-5 (20m) / T-10
K-1 (24m) / T-10
L-1 (20m) / T-10
Bentch between each section, include specific divisions.

Technical tender documents

- a) project team prepares them and sends to the country office
- b) contains all important information for the bidders to be able to prepare their offer

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Step 2: Preparation of tender

Priced BoQ				
WMM construction site		Code: (S) (V) (E) Local name: Fika 1		
WMM: G14		K14:01		
Type item (checkbox only):		Location:	Unit/size (Q)	
Single Earth work	<input checked="" type="checkbox"/>	Locking		
Triple earth work	<input type="checkbox"/>	Drilling beam	11'48" 15.47'	
Check Date	<input type="checkbox"/>	Fig. W. 400g	4'10" 10.27'	
No.	Description (see national codes and unit)	Quantity (Q)	Unit price (P) (€)	Total costs (€) (T)
1	Excavation for retention purpose, 60 cm depth, 200 cm width for each meter (width 2.00m) with foundation	226	293	66218.00
2	Masonry with foundation	226	1.250	282500.00
3	Masonry wall above ground (masonry construction - 1 per meter of (1) and 4 cubic meter)	88	1.200	105600.00
4	Standard steel (8.00 m) (Reinforced)	40	1.200	48000.00
5	Reinforced steel (8.00 m) (Reinforced)	-	1.200	-
6	Site Office (Support Minimum)	28	700	19600.00
Total cost for construction:				1482718.00
Note: Total cost of items is higher than the unit value.				


Priced and unpriced tender sheet / Bill of quantities (BoQ)

- a) project team prepares them and sends to the country office
- b) priced one for internal use, unpriced to be sent to bidders
- c) calculated for this specific tender according to market situation, previous contracts etc. and include VAT if project not exempted
- d) plan already now the payments (e.g. 1st one after excavation)

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Step 2: Preparation of tender



Service request form

- a) project team sends to the country office
- b) contains all important information
- c) all annexes attached

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Step 2: Preparation of tender

Tender types

- Open procedure: everyone can submit an offer, **no negotiations possible**
- Restricted procedure: restricted list of bidders, either identified by an Expression of interest or by the project, **no negotiations possible**
- Negotiated procedure (direct award with tender): restricted list of bidders, either identified by an Expression of interest or by the project, **negotiations possible**
- Direct award: just one specific company (e.g. patent), urgent or secret work etc., **negotiations possible**

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Time for a break???



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Step 2: Preparation of tender

Shortlist **giz**

Project number: 15.0126.6-001.00
 Project: GIZ-ASA4
 Country: Ethiopia
 Description of activity / services request: **Construction of WSR at Lake Woreda (W1W-01)**

Serial No.	Company name	Registration of the company	Present (indicate the full information or state that is further to be confirmed)	Manager responsible for the company or partner	Phone numbers	E-mail addresses
1	Woreda General Construction PLC	1859114	Yes	Mr. W. W. W.	0111-1111111	info@woreda.com
2	Woreda General Construction PLC	1859114	No	Mr. W. W. W.	0111-1111111	info@woreda.com
3	Woreda General Construction PLC	1859114	No	Mr. W. W. W.	0111-1111111	info@woreda.com
4	Woreda General Construction PLC	1859114	No	Mr. W. W. W.	0111-1111111	info@woreda.com
5	Woreda General Construction PLC	1859114	No	Mr. W. W. W.	0111-1111111	info@woreda.com
6	Woreda General Construction PLC	1859114	No	Mr. W. W. W.	0111-1111111	info@woreda.com

Shortlist to be used as reference in the preparation of the tender.
 Note and signature of GIZ personnel responsible for the shortlist: _____
 Date and signature of responsible GIZ contact: _____

YES NO (Please indicate)

Shortlist

- project team (not Woreda) prepares and sends to the country office
- ideally 5-8 companies
- contains references and contact details
- columns 2 and 8 to delete?

Do you have enough information about companies?

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Step 2: Preparation of expression of interest

- EoI is not a must, but needed if not enough knowledge about the market/contractors
- Project team could alternatively select the companies on their own
- The recommendation from E240 and Compliance team to use the EoI in order to minimize the manipulations risks
- It is allowed to make the known companies aware of started EoI, but no (!) additional information
- If after evaluation e.g. 20 companies are qualified (longlist), project team could select 5-8 for each tender (shortlist)



Step 2: Preparation of tender / expression of interest

The form is titled 'Construction of a school building' and includes the following sections:

- Project information:** Project number: 1510423-201802, Contract number: 1510423-201802, Project name: School for strengthening resilience in North-West Nigeria, Country: Nigeria.
- Contract details:** Contract value: 50000000, Estimated value: 50000000, Estimated value (incl. VAT): 50000000, Estimated value (incl. VAT) (incl. VAT): 50000000.
- Technical specifications:** 1. Open tender, 2. Technical specifications published, 3. Pre-qualification, 4. Negotiated procedure (closed award with tender), 5. Direct award (contract award without tender).
- Approval:** Approved by Procurement and Compliance Officer (Signature: J. K. [unclear]), Date: 31.07.2018.

(E240, Kateryna Zwarg)

Approval needed if design/construction costs are

over 50,000€

for one tender

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Time for a lunch break???



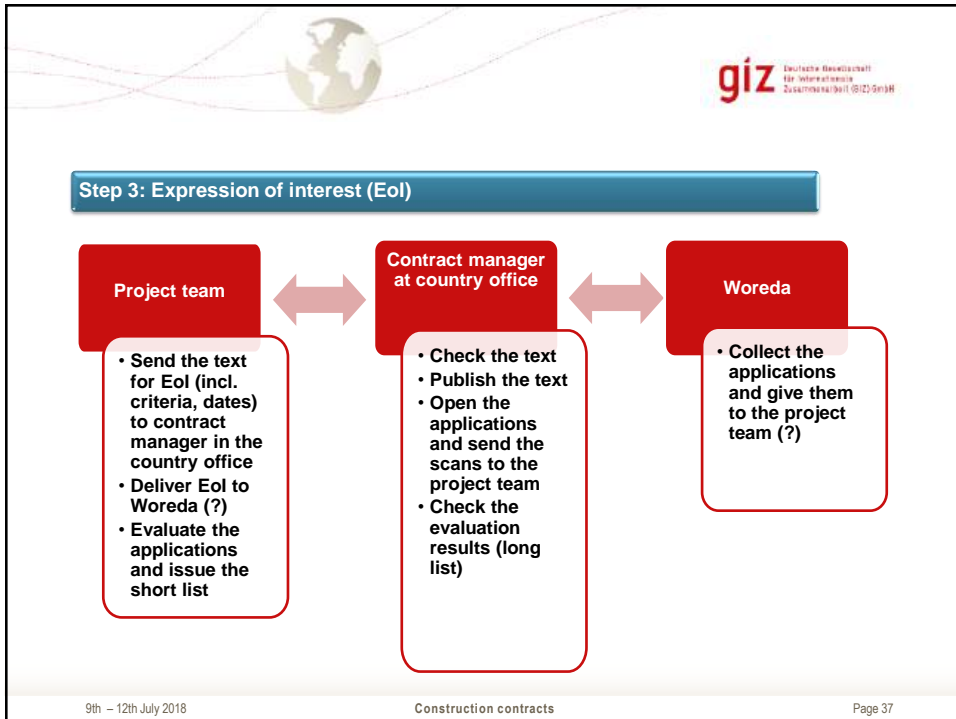
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Process „Construction contracts”

Day 2	Step 1: Approval by Construction Unit
	Step 2: Preparation of tender / expression of interest
	Step 3: Expression of interest
	Step 4: Tender
Day 3	Step 5: Tender evaluation
	Step 6: Signing the contract
	Step 7: Contract amendment


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-
- The slide provides a list of guidelines for Step 3: Expression of interest (Eoi). The guidelines are as follows:
- Keep it short and simple for companies, no discriminating criteria
 - Set criteria as high as needed but as low as possible to get enough replies
 - Choose realistic deadline for submission (at least 10 calendar days)
 - Choose appropriate media (newspapers, distribute over Woreda?)
 - Prepare evaluation scheme for internal use only
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Step 3: Expression of interest (Eoi)



Technical evaluation


- a) Do it once for all companies (long list), no need later for each tender (companies are qualified) -> saves time
- b) No. 4 work program could be requested during tender and assessed "yes/no".

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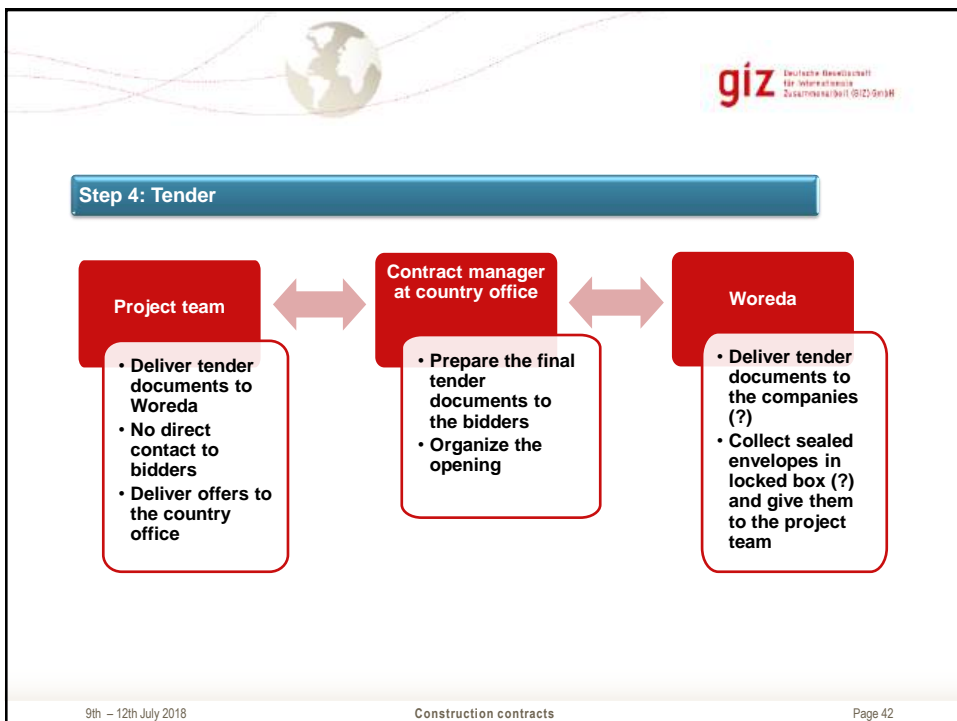


Step 3: Expression of interest (Eoi)

Handouts examples from Iraq, Ghana (incl. evaluation, minutes of opening and final shortlist)



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Step 4: Tender


- Distribute the tender documents over Woreda to the companies
- Invitation to tender (A1 form) to use
- Annexes consisting of tender, technical documents (drawings, specifications, descriptions etc.) and commercial (A2/A3/A11 Contract draft with annexes, A4 Tender conditions?, A5 Letter of tender?)
- Print out in contract folder (A28 Construction contract folder), electronic copy in DMS

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Step 4: Tender

A1 Invitation to tender



The form is a detailed invitation to tender for a water supply project. It includes project details, contact information for the German Development Cooperation Office (GIZ), and instructions for bidders. The form is signed and dated 14 February 2018.

Important:

- make clear what documents need to be submitted (e.g. tender sheet, time schedule)
- language?

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Time for a break???



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Step 4: Tender

Annex to tender - A2 or A3 or A11 Contract

Construction Contract (Measurement of Work)

A2

Standard contract for measurement of work

For the purpose of the contract, the contractor shall be responsible for the following items:

- Site preparation
- Excavation
- Foundation
- Structure
- Roofing
- Interior finishing
- External finishing
- Painting
- Electrical
- Sanitary
- Plumbing
- Heating
- Ventilation
- Air conditioning
- Other

Construction Contract (Measurement of Work)

A3

Standard contract for measurement of work

For the purpose of the contract, the contractor shall be responsible for the following items:

- Site preparation
- Excavation
- Foundation
- Structure
- Roofing
- Interior finishing
- External finishing
- Painting
- Electrical
- Sanitary
- Plumbing
- Heating
- Ventilation
- Air conditioning
- Other


A2 as standard.

A3 if BoQ has 10-20 positions and no measurement possible.

A11 short and simple version without 10% retention and 12 months defects liability period

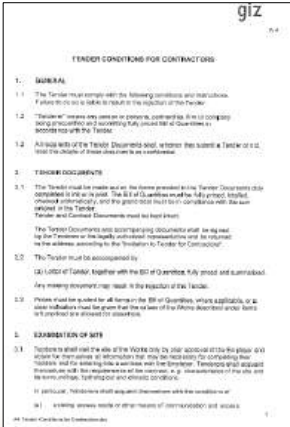
2 languages?

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Step 4: Tender


Annex to tender - A4 Tender conditions



- **Modifications of BoQ**
- **Unit prices without VAT, VAT as extra line**
- **Ambiguities**
- **Prohibited agreements**
- **Joint venture declaration**
- **Opening**


- **2 languages?**

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Step 4: Tender

Annex to tender – A5 Letter of tender



- **Please add the tender details and days in clause 4, should correspond to clause 6 in A1 Invitation.**
- **Should be signed by bidders**
- **2 languages?**

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Step 4: Tender

Annexes to tender – A6-A8 Bank guarantees

Advance Payment Guarantee

Business/Reference: [Blank line]
Contract No.: [Blank line]
Contract Title: [Blank line]
Project No.: [Blank line]
Range of works: [Blank line]

Contract value: [Blank line]

Contract start: [Blank line]

Contract end: [Blank line]

Contract date: [Blank line]

Contract title: [Blank line]

Project No.: [Blank line]

Range of works: [Blank line]

Contract value: [Blank line]

Contract start: [Blank line]

Contract end: [Blank line]

Contract date: [Blank line]

Contract title: [Blank line]

Project No.: [Blank line]

Range of works: [Blank line]

Advance Payment Guarantee

Business/Reference: [Blank line]
Contract No.: [Blank line]
Contract Title: [Blank line]
Project No.: [Blank line]
Range of works: [Blank line]

Contract value: [Blank line]

Contract start: [Blank line]

Contract end: [Blank line]

Contract date: [Blank line]

Contract title: [Blank line]

Project No.: [Blank line]

Range of works: [Blank line]

Contract value: [Blank line]

Contract start: [Blank line]

Contract end: [Blank line]

Contract date: [Blank line]

Contract title: [Blank line]

Project No.: [Blank line]

Range of works: [Blank line]


- Are required only if bidder needs pre-payment or does not want to have retentions from his invoices
- Otherwise please delete

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Steps 1 - 4: Corruption risks

Team work



Please discuss in your group:

- What are the corruption possibilities in steps 1-4?
- How to prevent them?

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Done for today! Questions? Feedback?



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DAY 3



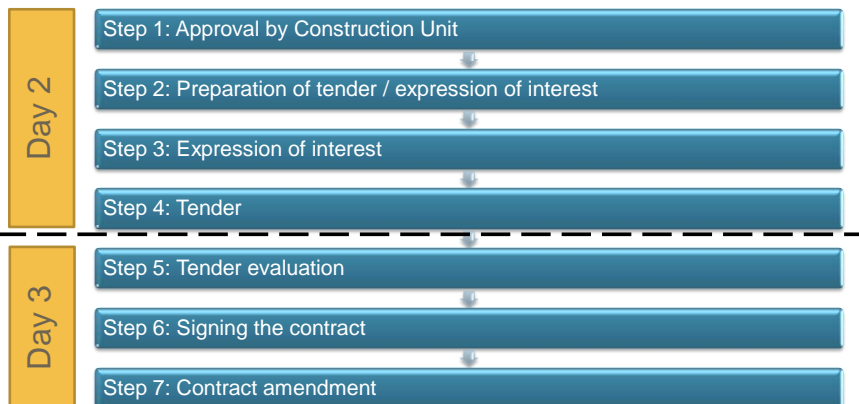


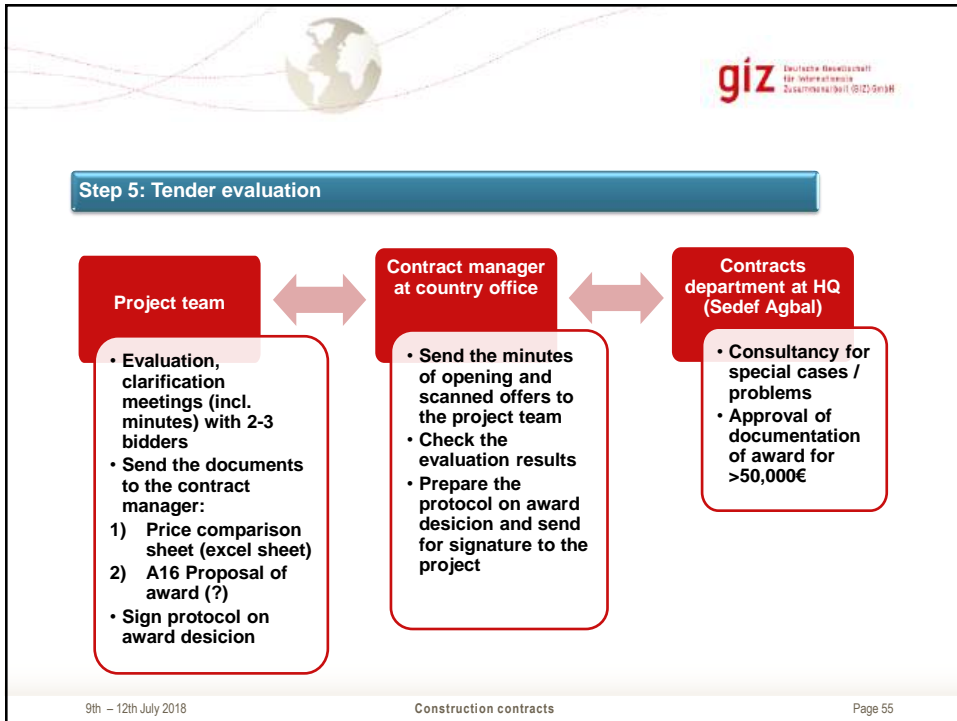
Agenda for today

Time	Activity
9:00 – 10:30	Questions & answers Step 5: Tender evaluation
10:30 – 11:00	Coffee break
11:00 – 12:30	Step 5: Tender evaluation incl. discussion and team work
12:30 – 13:30	Lunch break
13:30 – 15:00	Step 6: Signing the contract
15:00 – 15:30	Coffee break
15:30 – 17:00	Step 7: Contract amendment incl. discussion and team work Summary of the day Questions & answers



Process „Construction contracts”





Step 5: Tender evaluation

Minutes of tender opening

a) opening to be organized by contract manager, but done with 2 neutral persons (no project members) prompt after the delivery

b) check the seals and dates on envelopes

c) fill in hand-written

d) offers should be kept under lock before and after

e) no need to sign the tender opening from CoSoft (double work)

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Step 5: Tender evaluation


Price comparison sheet

- a) For all bidders and all positions, % deviation to cost calculation
- b) in excel
- c) helps to identify too low/too high prices for negotiations
- d) price agreements visible


Step 5: Tender evaluation

A16 Proposal of award

- a) The format is not obligatory to use, but helpful for documentation
- b) Normally the cheapest bidder gets an award (100% price, not 70% technical and 30% like in consulting), technical evaluation is "yes / no".
- c) If bidders are excluded exact reasons should be specified




Step 5: Tender evaluation




Protocol on award decision

- a) Contract manager in the country office prepares and sends to the project for signature
- b) Technical points all companies 100

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Step 5: Tender evaluation



A15 Documentation of award (not needed in SDR-program)

- a) The tender details should correspond to award procedure (changed should be documented in A16 Proposal of award)
- b) All 4 annexes are required for approval

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Time for a break???



Step 5: Tender evaluation

Team work: different examples of tender evaluation



- Please discuss in your group:
- is the award decision understandable?
 - any corrections needed?
 - is it clear for you how to prepare it and what for?

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Time for a lunch break???



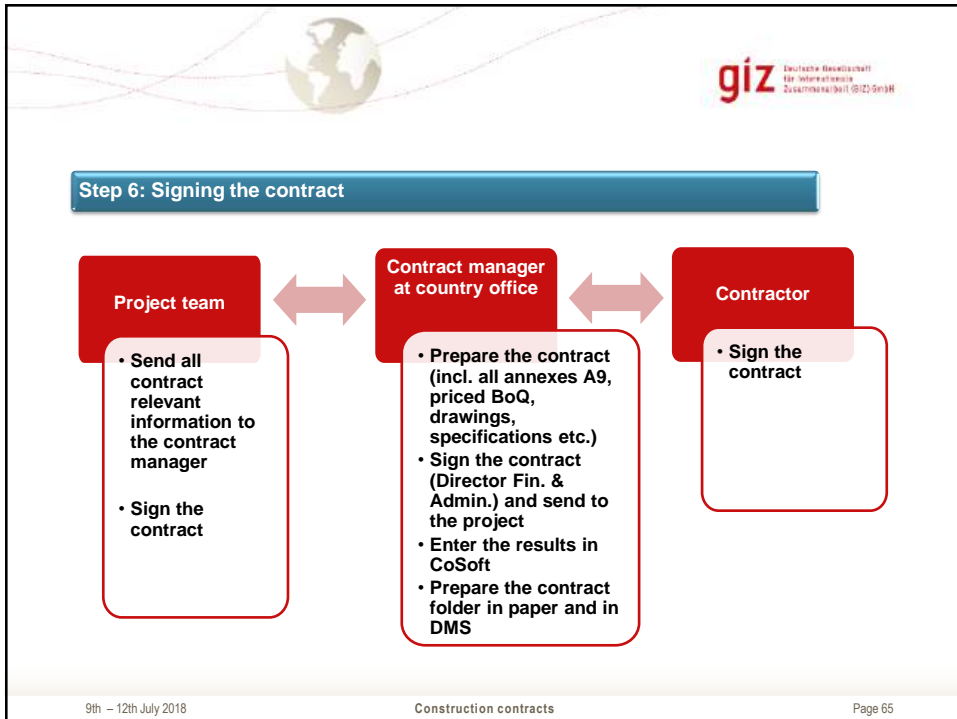
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Process „Construction contracts”

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Day 3	Step 5: Tender evaluation
	Step 6: Signing the contract
	Step 7: Contract amendment

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Step 6: Signing the contract

A28 Construction contract folder

a) Not obligatory, just the recommendation

b) Not all documents exists in each project

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Time for a break???



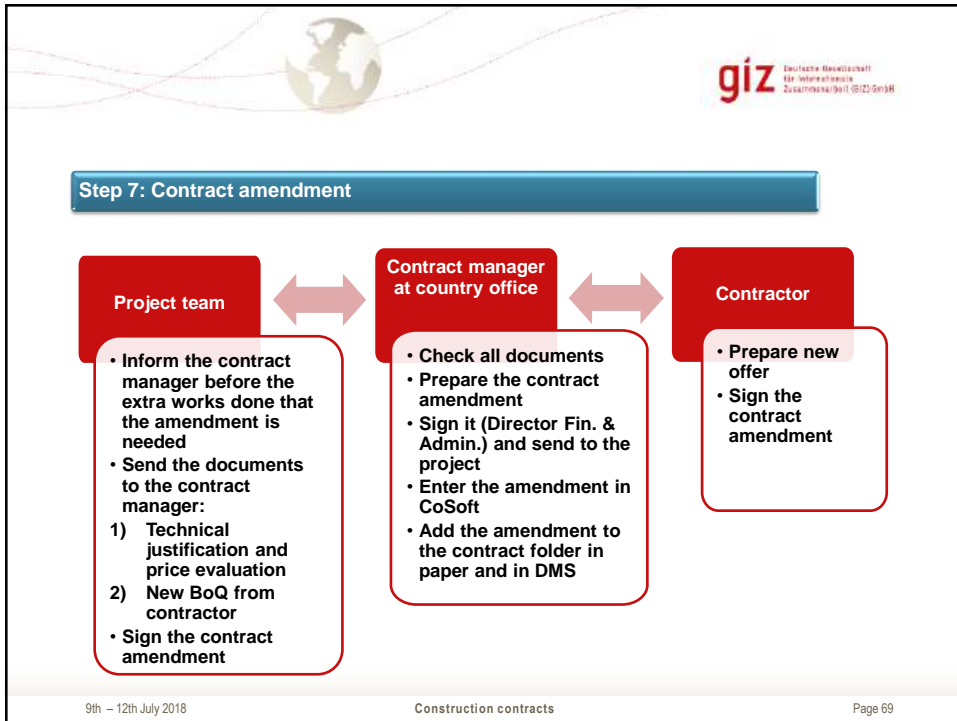
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Process „Construction contracts”

Day 2	Step 1: Approval by Construction Unit
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Step 7: Contract amendment

A17 Documentation of amendment (not needed in SDR-program)

Needed if:

- amendment is over 50,000€

Important:

- all 5 annexes are required for approval

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Step 7: Contract amendment

Team work



Please discuss in your group:

- how to minimize the amount of amendments?



Steps 5 - 7: Corruption risks

Team work



Please discuss in your group:

- What are the corruption possibilities in steps 5-7?
- How to prevent them?

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Process „Construction contracts” – DONE!

Day 2

Step 1: Approval by Construction Unit

↓

Step 2: Preparation of tender / expression of interest

↓

Step 3: Expression of interest

↓

Step 4: Tender

↓

Step 5: Tender evaluation

↓

Step 6: Signing the contract


↓

Step 7: Contract amendment

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Done for today! Questions? Feedback?



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DAY 4



Agenda for today

Time	Activity
9:00 – 10:30	Questions & answers Invoicing Time schedule for the whole process If something goes wrong
10:30 – 11:00	Coffee break
11:00 – 12:30	Local subsidies process
12:30 – 13:30	Lunch break
13:30 – 15:00	Summary incl. team work: 1) improvements in process, 2) in documents, 3) corruption risks
15:00 – 15:30	Coffee break
15:30 – 17:00	Summary of the training Questions & answers Feedback



Invoice verification

Project team should check each invoice:

- Works are really done? Invoice according to the progress on site? (also for lump-sum-contracts)
- Prices according to the contract?
- If quantities exceed that ones in BoQ -> inform contract manager about the amendment

Results to the accounting team in country office



Time schedule

Activity	weeks	SDR-program
Planning and preparing BoQ	2-8	
Step 1: Approval by Construction Unit	2-4	
Step 2: Preparation of tender / expression of interest	1-2	
Step 3: Expression of interest	2-4	
Step 4: Tender	2-6	
Step 5: Tender evaluation incl. negotiations	2-6	
Step 6: Signing the contract	1-2	
Total	12-32	
Step 7: Contract amendment	2-4	



If something goes wrong:

- 1) Construction stop due to weather, conflicts etc.
- 2) Contractor has no money to buy the materials
- 3) Emergency works as amendment
- 4) Insufficient performance of Contractor
- 5) Contract termination from GIZ or from Contractor
- 6) Defects after taking-over
- 7) What else?



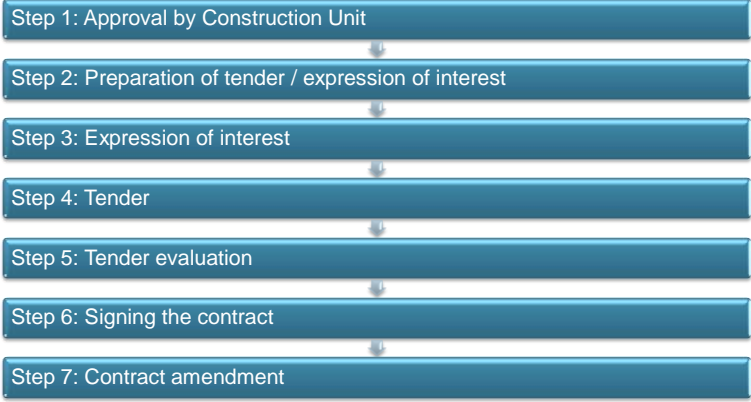
Time for a break???





Process „Construction contracts” via local subsidies

Woreda does on their
own, permanent control
from the project



Time for a lunch break???





Team work



Please discuss in your group:

- improvements in the process? or
- improvements in the documents? or
- corruption risks?



Time for a break???



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Summary of the training
Expectations fulfilled?
Feedback?

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Done!!!

9th – 12th July 2018

Construction contracts

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