


**PUBLIC PROCUREMENT REGULATORY AUTHORITY
(PPRA)**

**GUIDELINES FOR
DETERMINATION OF MAJOR AND MINOR DEVIATION, 2025**

MAY, 2025

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GUIDELINES FOR DETERMINATION OF MAJOR AND MINOR DEVIATION, 2025

Approved by Board of Directors	Title Director General	Signature 	Date 7 th May, 2025
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ABBREVIATIONS AND ACRONYMS

Authority	Public Procurement Regulatory Authority
MCB	Manager Capacity Building
PSCD	Procurement and Supplies Capacity Development
HPMU	Head of Procurement Management Unit
PMU	Procurement Management Unit
PPRA	Public Procurement Regulatory Authority
PPA	Public Procurement Act, CAP 410
PPR	Public Procurement Regulations G.N. 518 of 2024
PE	Procurement Entity
TB	Tender Board

DOCUMENT VERSION CONTROL

Name of the Document	Guidelines for Determination of Major and Minor Deviation, 2025
Version	Second Release, May, 2025
Document Number	PPRA/PSCD/PSS/25/06
Responsibility	Management, PEs
Developed by	PPRA
2nd Approval (Second Issue)	Board, May, 2025
Applicability	Tender Board, PMU and Management
Purpose	To guide the determination of major and minor deviations during the assessment of the responsiveness of bids
It is part of	Public Procurement Guidelines
Related Documents	PPA, CAP 410, PPR, GN 518 of 2024,
Distribution	Board, Management, HPMU, AOs and PEs

	PART I: INTRODUCTION
1. Background	<p>1.1. When a procuring entity (PE) invites tenders to participate in the tendering process, the aim is to obtain maximum competition from the invited tenderers. Determination of the responsiveness of tenders submitted can be achieved through the evaluation conducted as per the processes specified in the instructions contained in the tender documents. The scrutiny of tenders for substantial responsiveness to the provisions of the tendering documents includes the determination of Major and Minor deviations.</p> <p>1.2. These Guidelines are hereby issued to guide PE to determine major and minor deviations.</p>
2. Short Title	2.1. This document may be cited as the Guidelines for the determination of major and minor deviations, 2025
3. Application	3.1. These guidelines shall be applied by all PEs during the evaluation of tenders.
	3.2 Where the interpretation of any provision of these Guidelines conveys meaning contrary to the Public Procurement Act and its Regulations, the provisions of such Act and its Regulations shall prevail, and its interpretation shall be final and conclusive.
	3.3 These Guidelines shall come into force from the date they are issued to the Public by the Authority.

4. Definitions	<p>4.1. In these Guidelines, unless the context requires otherwise; -</p> <p>“Authority” means the Public Procurement Regulatory Authority.</p> <p>“Procuring Entity” means a public body and any other body, or unit established and mandated by government to carry out public functions;</p> <p>“Deviation” means a departure from the requirements specified in the Tendering Document;</p> <p>“Reservation” means when the tenderer is setting limiting conditions or withholding from complete acceptance of the requirements specified in the Tendering Document; and</p> <p>“Omission” is the failure to submit part or all of the information or documentation required in the Tendering Document.</p>
5. Purpose of the Guideline	<p>5.1. General Purpose To guide procuring entities in determining major and minor deviations while establishing the responsiveness of the tender. These Guidelines are issued based on the power vested to the Authority by virtue of Section 130 of the Public Procurement Act, Cap 410.</p> <p>5.2. Specific Purpose The specific purpose of this guideline is to:</p>
	<p>a) Guide PEs on appropriate provisions of legislation and procedures to be followed during the determination of major and minor deviations.</p> <p>b) To ensure consistency in the application of evaluation criteria specified in the tendering documents; and</p> <p>c) Increasing transparency, efficiency and effectiveness of the evaluation process.</p>
6. Importance of the Guideline	<p>6.1 These guidelines outline the criteria that should be used by PE when determining the most responsive tender.</p>
	<p>6.2 The use of these Guidelines will ensure uniformity with regard to the procedures to be undertaken by procuring entities when evaluating and comparing tenders.</p>

	PART II: DETERMINATION OF RESPONSIVENESS
7. Responsiveness of tenders	<p>7.1 The tender evaluation shall be consistent with the terms and conditions prescribed in the tendering documents, and such evaluation shall be carried out using the criteria explicitly stated in the tender documents. Tenders shall be comparable among themselves in order to determine the lowest evaluated tender for the procurement of goods, works, or services.</p> <p>7.2 The PE's determination of a tender's responsiveness shall be based on the contents of the submitted tender itself without referring to matters that are not included in the tender document. Where a tender is not responsive to the tender document, it shall be rejected by the PE.</p>
	PART III: TENDER EVALUATION
8. Determination of responsiveness	8.1 To determine substantial responsiveness of tenders, PEs should conduct preliminary examinations on commercial terms, conditions and technical requirements based on the requirements of the tender documents.
9. Responsiveness to commercial terms and conditions	<p>9.1 All tenders shall be checked for substantial responsiveness to the commercial terms and conditions of the tendering documents.</p> <p>9.2 Major deviations to commercial terms and conditions, which justify rejection of a tender, shall include the following:</p> <ul style="list-style-type: none"> (a) Failure to sign the tender form, and price schedules by the authorized person or persons; (b) Failure to satisfy eligibility requirements; (c) Failure to submit a tender security as specified in the tendering documents; (d) Failure to satisfy the tender validity period; (e) inability to meet the critical delivery schedule or work schedule clearly specified in the tendering documents, where such schedule is a crucial condition with which tenderers must comply;

	<ul style="list-style-type: none"> (f) Failure to comply with minimum experience criteria as specified in the tendering documents; (g) conditional tenders, such as conditions in a tender which limit the tenderer's responsibility to accept an award; (h) Inability to accept the price adjustment formulae of the tendering documents; (i) stipulating price adjustment when fixed price tenders were invited; (j) subcontracting in a substantially different amount or manner than that permitted; (k) failure to submit major supporting documents required by the tendering documents to determine substantial responsiveness of a tender.
10. Responsiveness to technical requirements	<p>10.1 All tenders shall be checked for substantial responsiveness to the technical requirements of the tendering documents and nonconformity to technical requirements, which are justifiable grounds for rejection of a tender, including the following:</p> <ul style="list-style-type: none"> (a) failure to tender for the required scope of work as instructed in the tendering documents and where failure to do so has been indicated as unacceptable; (b) failure to quote for a major item in the package; (c) failure to meet major technical requirements, such as offering completely different types of equipment or materials from the types specified, plant capacity well below the minimum specified, or equipment not able to perform the basic functions for which it is intended; (d) presentation of absolutely unrealistic and inadequate implementation plans and schedules regarding performance, technical or service factors.

<p>11. Deviations, Reservations and Omissions</p>	<p>11.1 A substantially responsive bid is one that meets the requirements of the Tendering Document without Major deviation, reservation, or omission.</p> <p>11.2 A Major deviation, reservation, or omission is one that,</p> <ul style="list-style-type: none"> (a) if accepted, would: <ul style="list-style-type: none"> (i) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or (ii) limit in any substantial way, inconsistent with the Tendering Document, the Employer's rights or the Tenderer's obligations under the proposed Contract; or (b) If rectified, it would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.
	<p>11.3 PE shall examine the responsiveness to the commercial terms, conditions and technical requirements of the tender documents has been met without any major deviation, reservation or omission.</p> <p>11.4 If a tender is not substantially responsive to the requirements of the Tendering Document, it shall be rejected by the PE and may not subsequently be made responsive by correction of the major deviation, reservation, or omission.</p>

12. Non-material, Non-conformities, Errors, and Omissions	<p>12.1 The PE may request that the Tenderer submit the necessary information or documentation within a reasonable period of time to rectify non-material or nonconformities in the tender related to documentation requirements, provided that a tender is substantially responsive.</p> <p>12.2 The information or documentation requested on such non-material or non-conformities shall not be related to any aspect of the price of the tenderer. Failure of the Tenderer to comply with the request may result in the rejection of its bid.</p> <p>12.3. The PE shall rectify quantifiable non-material or non-conformities related to the Tender Price, provided that a tender is substantially responsive. To this effect, the Tender Price may be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the methods indicated in Section IV (Evaluation and Qualification Criteria).</p> <p>12.4. Makes it an obligation on the part of Tenderers to submit, along with their tenders, the documents listed therein. If this clause is read in isolation, a tender may be declared incomplete and therefore not responsive for non-submission of any of the documents. This may not be correct, especially if the tender is substantially responsive and the omission is a non-material nonconformity, as indicated in Section II (Instruction to Tenderers) allows the Tenderer to rectify the omission in such circumstances.</p> <p>12.5. The determination of the Responsiveness of tenders finally rests upon the interpretation of major deviation, reservation, and omission as indicated in Section II (Instruction to Tenderers).</p>
PART IV- GENERAL CLAUSES	
13. Review of the Guidelines	These Guidelines shall be reviewed every three years or when the need arises.
14. Repeal of Previous Guidelines	The Guidelines for Determination of Major and Minor Deviation of October 2017 are hereby repealed and replaced with these Guidelines.

