



INSTRUCTIONS GUIDE FOR THE IDENTIFICATION, ANALYSIS AND TREATMENT OF UNBALANCED OFFERS

Version 1

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R i s k M a n a g e m e n t

Public Once Approved

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INDEX

I.	INTRODUCTION.....	3
II.	OBJECTIVE	3
III.	SCOPE.....	3
IV.	ABBREVIATIONS AND TERMS.....	3
V.	DEFINITIONS.....	3
VI.	RELATED DOCUMENTATION.....	4
VII.	DEVELOPMENT	4
1.	Unbalanced Bids Generalities	4
2.	Unbalanced Bids Types	5
3.	Treatment of Unbalanced Bids.....	5

I. INTRODUCTION

The Central American Bank for Economic Integration (CABEI) is an international multilateral development financial institution whose resources are invested, among others, in the non-financial public sector of its member countries, which generally use CABEI's Procurement Policy and its application standards for the selection of contractors, consultants and suppliers.

In this context, this guide has been developed to provide a detailed description of the key concepts for the identification and treatment of unbalanced bids submitted in procurement processes where the Bank's Procurement Policies are applied. In all contract award decisions, the borrower/beneficiary is expected to perform reasonable due diligence to ensure that the bidder is capable of performing the contract and in the event of a suspected unbalanced bid, enhanced due diligence should be executed on the bid.

II. OBJECTIVE

The purpose of this document is to provide Borrowers / Beneficiaries with guidelines for the identification, analysis and treatment of unbalanced bids submitted in procurement processes with CABEI financing.

III. SCOPE

This guide should be used by borrowers/recipients or executing agencies for the proper management of procurements where the procurement methods established in CABEI's Procurement Policy Implementation Rules are applied when contracting works in public sector operations financed by the Bank.

As part of the evaluation of bids, the contractor must identify unbalanced or imbalanced bids, as if they are awarded a contract, they may have a significant impact on the administration of the project and the final cost of the works.

IV. ABBREVIATIONS AND TERMS

- **CABEI or Bank:** Central American Bank for Economic Integration.

V. DEFINITIONS

- **Activities list:** In lump sum contracts, it is used to calculate the Contract Price, shows the sequence and durations of the activities, and shall contain the items that correspond to the design, construction, assembly, testing and commissioning work to be performed by the Contractor.
- **Bill of Quantities with unit prices:** The document in which the Contractor indicates the cost of the Works on the basis of the estimated quantities of work and the fixed unit prices applicable thereto.

- **CABEI:** Central American Bank for Economic Integration. In all cases the borrower/beneficiary will be represented by the representative office or technical area responsible for the operation.
- **Unbalanced Bid:** An "unbalanced" bid, or one whose costs are concentrated at the beginning of the period, is a bid in which some prices are relatively higher and others lower in relation to the estimated costs of work to be performed or the prices submitted by other bidders, for items of work to be performed at the beginning of contract performance or for underestimated quantities for certain items of work to be performed.
- **Unit price:** This is the price per unit of measurement of each activity, concept or item comprising the work project, considering the elements of technical specifications, direct costs, indirect costs, financing cost, profit charge and additional charges.

VI. RELATED DOCUMENTATION

- Policy for obtaining goods, works, services and consultancies with CABEI resources
- Norms for the Application of the Procedures for the Procurement of Goods, Works, Non-Consulting and Consulting Services
- CABEI Anti-Fraud, Anti-Corruption and Other Prohibited Practices Policy.

VII. DEVELOPMENT

1. Unbalanced Bids Generalities

- 1.1. Bid imbalance could be the result of a bidder's misunderstanding or the bidder's attempt to increase its cash flow during the initial contract period or, in order to increase profits by inflating the unit prices of items it believes will be used more than scheduled¹.
- 1.2. The effects of unbalanced bids may be:
 - a. In the event that the bid is the result of a misunderstanding by the bidder, upon being awarded the contract, the bidder could be seriously affected financially, impacting its ability to meet the obligations of the contract. This is generally characterized by cash flow problems in the contractor since they must wait for payments in order to advance in the execution of the work, finally the project may be affected in its completion in time and form.
 - b. In the event that the Contractor, prior to the signing of the contract, learns of the error in the bid, it could delay the signing of the contract.

¹ Among others, an unbalanced bid could also be caused by the erroneous interpretation or manipulation of a parameter or technical specification, voluntary or involuntary manipulation of a unit price, or when arithmetic corrections cause a bid to be materially unbalanced.

- c. Disputes and/or complaints to the process by other bidders who know the correct cost structure of the bided work.

2. Unbalanced Bid Types

2.1. Unbalanced bids can generally be classified into the following two (2) categories:

a. Bids with higher unit prices for items to be executed at the beginning of the contract.

Bids in this category present relatively high unit prices for those items of work to be performed at the beginning of the contract period in order to increase the initial payments. The same situation may occur in some supply, delivery, and installation contracts.

This type of bid results in a higher initial cost to the Employer (i.e., additional over the upfront payment) and more importantly, the incentives for the contractor to complete the work are greatly reduced, as the payments to be received by the contractor during the later phases of the contract may, as a result, be less than the actual costs.

b. Higher unit prices for underestimated items of work.

In this case, a bidder who has reason to believe that the quantities of one or more of the items included in the "Schedule of Quantities" are underestimated may include in its bid unduly high unit prices for those items.

3. Treatment of Unbalanced Bids

3.1. An unbalanced bid of type "a" as indicated in No. 2.1 (a) should generally not be rejected unless it is grossly unbalanced, i.e., the prices quoted for the items involved are about 50% higher than the average quoted by other bidders for the same items, and where the total amount involved exceeds between 1% and 5% percent of the total bid depending on the size of the contract.

In such cases, if the Bid for a contract based on the lowest evaluated cost performance measurement is, in the Employer's opinion, seriously unbalanced or involves large initial payments, the Employer may request the Bidder to submit written clarifications including, for example, detailed price analyses to demonstrate the consistency of the Bid price with the scope of Work, the proposed methodology, the schedule and any other requirements set forth in the Bidding Document.

After evaluating the information and detailed price analyses submitted by the Offeror, the Employer may, as appropriate:

- a. Accept the bid, or
- b. Request an increase in the amount of the Performance Security, at the Bidder's expense, up to a value not exceeding 20% of the Contract Price, or
- c. Reject the Bid.

- 3.2. For type "b" unbalanced bid, as indicated in section 2.1 (b), the terms of the contract should be revised. In most civil works contracts, both the contractor and the Employer are protected from such technical errors by incorporating the provision that a new unit price will be negotiated if:
 - a. The actual measured quantity of work performed for the item exceeds or reaches the quantity set forth in the Bill of Quantities by more than 25%; or
 - b. The change in quantity results in increasing the total quantity of any item by more than 2% of the contract price.
- 3.3. If such a provision is not included in the bid document, then at the time of contract negotiation, an agreement must be reached to include the above provision as part of the particular conditions of the contract, in lieu of rejection of the bid.
- 3.4. In any of the above cases, the analysis, and actions to be taken shall be included in detail in the process evaluation report, which in cases of prior review, shall be submitted for the Bank's non-objection prior to the contract Award Notification.