

Checklist for evaluation panel members

Please consider this example checklist alongside the [Best Practice Guidance on Open and Evaluate Tenders](#), and other [Tools](#).

Treat all bids equally

Evaluation must ensure equal treatment and be conducted in a proportionate, objective, transparent and non-discriminatory manner.

- Responses must be scored individually by panel members.
- Responses must only be compared to the published award criteria as opposed to comparison with responses of other bidders.
- Consider the impact of the package of Fair Work practices on the contract, recognising that responses will differ depending on the size or status of bidders, or their place of business, including outside the UK. For example:
 - a larger bidder might be expected to have in place formal policies and procedures to cope with their staff numbers whilst a smaller bidder might have more informal arrangements;
 - a smaller bidder may not have formal mechanisms to give staff a voice, it may however be capable of demonstrating a strong commitment to that dimension by offering direct and open engagement with senior management; and,
 - where an international bidder proposes to deliver the contract from outside the UK, although different labour standards will apply, it should still be expected to evidence a positive approach to Fair Work.
- Take into account short, medium and long term actions to embed Fair Work practices in organisational policies and practices. This may include working towards accreditation or being active in an application process, examples include, [Scottish Living Wage Accredited Employer](#), [Investors in People](#), [Investors in Young People](#), [Healthy Working Lives](#), [Construction Industry Training Board Be Fair Framework](#), and [Stonewall Diversity Champion](#).
- Consider whether the bidder played to its strengths and made the most of what it has, such as maximising all the time and resources available to it in terms of developing progressive employment policies and Fair Work practices, demonstrating “above and beyond” legal compliance.

How will Fair Work practices impact on quality?

Evaluate the quality of the complete package of Fair Work practices and how they are likely to have a positive impact on the quality of the contract for its duration.

- Take particular account of how a bidder’s Fair Work practices are likely to have a positive impact on the quality of the contract / service delivery in that sector.
- Consider whether one aspect of the package of Fair Work practices proposed, could have a detrimental effect on others. For example, a positive approach to pay, but a detrimental effect on other employee benefits, such as stability of contractual arrangements.
- Any Fair Work practices not highlighted in the Fair Work criterion question but which are included in a bidder’s response and are relevant to the nature of the contract, must also be taken into account.
- Take account of whether a bidder has recognised its own shortcomings in terms of employment policies and practices, for example where a bid describes remedial measures or new proposals, where these can have a positive impact on contract performance.

EXAMPLE

Fair pay and equal pay, including the real Living Wage

It would normally be expected that responses will include a commitment to fair pay and equal pay, including the real Living Wage, for the duration of the contract. The real Living Wage is one of the clearest ways a bidder can demonstrate that it adopts Fair Work practices.

- While failure to pay the real Living Wage would be a strong negative indicator, it does not mean that the employer's approach automatically fails to demonstrate a positive approach to Fair Work practices.
- **A bidder's response to paying the real Living Wage, or any other individual element of a package of Fair Work, must not be scored separately.**
- Where it is unclear whether a bidder's response is referring to the real Living Wage (set by the Resolution Foundation) or the National Minimum Wage (including 'national living wage'), seek clarification, rather than make an assumption.
- While the real Living Wage is only applicable to UK-based workers, international bidders should still be able to evidence a positive approach to fair pay and equal pay that guarantees a reasonable standard of living for non UK-based workers delivering the contract.

Legal requirements v Fair Work practices

- Do not take into account elements of a bidder's response which reflect those practices which an employer is required to have in place in order to meet legal minimum requirements.
- Take into account any proactive policies or voluntary measures organisations take to ensure active compliance with legislation, for example voluntary training, data collection or auditing and verification activity.
- Bids must comply with all relevant legal obligations, including requirements in employment law and evaluators must consider risks of the non-compliance and act as necessary.
 - Where it can be established that the bid itself would not comply with relevant environmental, social and labour law, a public body may decide not to award a contract to that bidder ([regulation 57\(2\) of the Public Contracts \(Scotland\) Regulations 2015](#)).
 - Where a bid is regarded as abnormally low, a public body must require the bidder to explain its bid. The bid may be rejected if the explanation given does not satisfactorily account for the low bid ([regulation 69\(4\) of the Public Contracts \(Scotland\) Regulations 2015](#)). The bid must be rejected if it is established that the bid is low because the bid does not comply with relevant environmental, social and labour law ([regulation 69\(5\) of the Public Contracts \(Scotland\) Regulations 2015](#)).