



# GUIDELINES

## PROCUREMENT

### FOR GOODS, WORKS AND SERVICES

Under  
CEB loans

November 2004

Council of Europe Development Bank

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# PROCUREMENT GUIDELINES

## FOR GOODS, WORKS AND SERVICES

### I INTRODUCTION

#### I.1 PURPOSE OF GUIDELINES

The purpose of these Guidelines is to inform those carrying out a project that is financed by a loan from the Bank of the policies that govern the procurement of goods, works and services (including related services) required for the project.

The Loan Agreement governs the legal relationships between the Borrower and the Bank and the Guidelines are made applicable to procurement of goods and works for the project, as provided in the Agreement. The rights and obligations of the Borrower and the providers of goods and works for the project are governed by the bidding<sup>1</sup> documents and by the contracts signed by the Borrower with the providers of goods and works, and not by these Guidelines or the Loan Agreements. No party other than the parties to the Loan Agreement shall derive any rights there from or have any claim to loan proceeds.

#### I.2 GENERAL CONSIDERATIONS

The responsibility for the implementation of the project, and therefore for the award and administration of contracts under the project, remains with the Borrower<sup>2</sup> The Bank, for its part, is required by its Articles of Agreement to "grant loans for the financing of operations which are consistent with its objectives (art. II)", with due attention to consideration of eligibility as well as selection and financing. The Bank established detailed procedures for this purpose.

In practice the specific procurement rules and procedures to be followed in the implementation of a project depend on the particular circumstances.

Five considerations generally guide the Bank's requirements:

1. The need for economy and efficiency in the implementation of the project, including the procurement of the goods and works involved;
2. To ensure that the loan is used to buy only those goods and services needed to carry out the project;
3. To ensure that the procurement process is transparent;
4. To give all qualified bidders the same information and equal opportunity to compete in providing goods and works financed by the Bank;
5. To encourage, in specific circumstances, the development of domestic contracting and manufacturing industries in the borrowing countries.

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<sup>1</sup> For the purpose of these Guidelines, the words "bid" and "tender" shall have the same meaning

<sup>2</sup> In some cases the borrower acts only as an intermediary and the projects is carried out by another entity. Referenced in these guidelines to the borrower include such entities as well as sub-borrowers under on-lending arrangements.

### ***1.3 INTERNATIONAL COMPETITIVE BIDDING***

Open competition is the basis for efficient public procurement in most cases, International Competitive Bidding (ICB), properly administered and with the allowance for preferences for domestically manufactured goods and, where appropriate, for domestic Contractors<sup>3</sup> for works under prescribed conditions (Section I.6 ) is the most appropriate method.

In most cases, therefore, the Bank can require its Borrowers to obtain goods, works and services through ICB open to eligible suppliers and contractors (Section II of these Guidelines describes the procedures for ICB).

### ***1.4 OTHER METHODS OF PROCUREMENT***

Where ICB is clearly not the most appropriate method of procurement, other methods of procurement may be used (Section III describes these other methods of procurement and the circumstances under which their application would be more appropriate). The particular method that may be followed for the procurement under a given project is provided for in the Loan Agreement.

### ***1.5 APPLICABILITY OF GUIDELINES***

The procedures outlined in these Guidelines apply to all contracts for goods, works and services financed in whole or in part from the Bank loans. For the procurement of those contracts for goods, works and services not financed from a Bank loan, the Borrower may adopt other procedures.

### ***1.6 DOMESTIC PREFERENCE***

At the request of the borrower, and in the evaluation of International Competitive Bidding (ICB) the CEB may allow "domestic preference" in accordance with, and subject to the following provisions:

- The local content (labour, raw materials, components or other inputs originating in the same country as the Borrower) accounts for at least 30 percent of the price of the product or service being tendered for.
- The margin of preference given by a Borrower to domestic bidders does not exceed 10 percent.
- The Bidding Documents clearly indicate the degree of preference, and the method that would be followed in the evaluation and comparison of bids to give effect to such preference.

No domestic preference can be applied without prior approval from the CEB.

### ***1.7 ELIGIBILITY***

In principle, funds are disbursed only on account of expenditures for goods, works and services provided by and produced in or supplied from all countries regardless of whether the country is a member of the Bank.

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<sup>3</sup> For purposes of these Guidelines, "Contractor" refers only to a firm providing construction services.

In accordance with international law, the proceeds of the Bank's loans should not be used for payment to persons or entities or for any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII<sup>4</sup> of the Charter of the United Nations. Under this policy bidders covered by such prohibition shall be disqualified from bidding for contracts intended to be financed in whole or in part from Bank loans.

## ***1.8 CALCULATION OF THRESHOLDS***

Where a proposed work or purchase of services may result in contracts being awarded at the same time in the form of separate lots, account shall be taken of the total estimated value of all such lots.

Where the aggregate value of the lots is equal to or exceeds the threshold laid down in the relevant legislation or defined in the loan agreement, the procedure defined for the threshold shall apply to the awarding of each lot.

However, the contracting authorities may waive such application in respect of lots for works, provided that the aggregate cost of those lots does not exceed 20% of the aggregate value of the lots as a whole.

## ***1.9 ACCEPTABILITY OF VARIANTS***

Where the criterion for award is that of the most economically advantageous tender, contracting authorities may authorise tenderers to submit variants.

The contracting authorities shall indicate in the contract notice whether or not they authorise variants: **variants shall not be authorised without this indication.**

## ***1.10 DISQUALIFICATION OF BIDDER***

In connection with any contract to be partially financed from a loan, the Bank requests the Borrower to disqualify any bidder for the following reasons:

A firm engaged by the Borrower to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works, or services resulting from or directly related to the firm's consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors or suppliers) which together are performing the contractor's obligations under a turnkey or design and build contract.

Government-owned enterprises in the Borrower's country may participate only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Borrower or Sub-Borrower

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<sup>4</sup> Chapter VII - Action with respect to threats to the peace, breaches of the peace, and acts of aggression



## **I.11 BIDDING BEFORE LOAN SIGNATURE**

The Borrower may wish to proceed with the initial steps of procurement before signing the related Bank loan agreement. In such cases the procurement procedures, including advertising, shall be in accordance with the Guidelines so that the eventual contracts can be eligible for Bank financing. A Borrower undertakes such advance contracting at its own risk, and any agreement by the Bank with the procedures, documentation or proposal for award does not commit the Bank to approve a loan for the project in question.

## **I.12 BANK REVIEW OF BORROWER'S PROCEDURES**

In principle the Bank will perform a post-review of the Borrower's procurement procedures, documents, bid evaluations, award recommendations and contracts to ensure that the procurement process is carried out in accordance with the agreed procedures. The Bank will have the right to carry out a pre-review of the Borrower's procurement procedures when appropriate.

The Loan Agreement shall specify the extent to which these review procedures shall apply in respect of the different categories of goods and works to be financed, in whole or in part, from the Bank Loan.

### **I. INDIVIDUAL PROJECTS**

The Borrower shall transmit to the Bank the report containing the result of all tender evaluations and its recommendation for award of the contract/s in one of the official language of the Bank (English or French) and a final conformed copy of the signed contract /s.

### **II. SECTOR-BASED PROJECTS AND MULTI-PROJECT PROGRAMMES**

For each instalment and after identification of the projects, the Bank will specify to the Borrower the list of contracts that will be subject to post-review. The borrower shall then transmit to the Bank the reports containing the result of all tender evaluations and its recommendation for award of the contract/s in one of the official language of the Bank (English or French) and a final conformed copy of the signed contract /s.

## **I.13 MISPROCUREMENT**

The Bank will not finance expenditures for goods and works which have not been procured in accordance with the agreed provisions in the Loan Agreement. In such cases, the Bank will declare misprocurement and it is the policy of the Bank to cancel that portion of the loan allocated to the goods and works that have been misprocured.

- The Bank can refuse to disburse funds if it determines that goods and works have been misprocured ;
- The Bank can suspend further disbursements of the loan allocated to a contract for goods or works if at any time it determines that they have not been procured in accordance with the agreed procedures, until the Borrower takes appropriate action satisfactory to the Bank to remedy the situation;
- The Bank can cancel the remaining portion of the loan and can require the reimbursement of the loan allocated to a contract for goods or works if at any time it considers that the Borrower has not taken timely and appropriate action to remedy the situation;
- The Bank may, in addition, exercise other remedies provided for under the Loan Regulations or the Loan Agreement.

## **I.14 REFERENCES TO BANK IN THE PROCUREMENT DOCUMENTS**

If the Borrower wishes to refer to the Bank in procurement documents, the following phrase should be used:

"(Name of Borrower) has received (or in appropriate cases 'has applied for') a loan from Council of Europe Development Bank (The Bank) in an amount in equivalent to EURO (xxx) toward the cost of (name of project), and intends to apply a portion of the proceeds of this loan to eligible payments under this contract. Payment by the Bank will be made only at the request of (name of Borrower or designate) and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the Loan Agreement. No party other than (name of Borrower) shall derive any rights from the Loan Agreement or have any claim to the proceeds of the loan."

## **I.15 FRAUD AND CORRUPTION**

It is the Bank's policy to require that Borrowers (including the final beneficiaries of Bank loans), as well as bidders/Suppliers/Contractors under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.

In pursuance of this policy, the Bank:

- defines, for the purposes of this provision, the terms set forth below as follows:
  - (i) "corrupt practice" means the offering, giving, receiving, or soliciting directly or indirectly of any thing of value to influence the action of a public official in the procurement process or in contract execution;
  - (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
  - (iii) "collusive practices" means a scheme or arrangement between two or more among bidders with or without the knowledge of the borrower (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels;

The Bank will have the right to require that, in contracts financed by Bank loan, a provision be included requiring Bidders, Suppliers and Contractors to permit the Bank to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them reviewed.

A Borrower may introduce, into bid forms for large contracts financed by the Bank, an undertaking of the bidder to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery). As an example, such an undertaking might read as follows: "We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in the country of the [Purchaser] [Employer], as such laws have been listed by the [Purchaser] [Employer] in the bidding documents for this contract."

The Bank will accept the introduction of such undertaking, at the request of the Borrower's country, provided the arrangement governing such undertaking are satisfactory to the Bank.



## **I.16 CANCELLATION OF AWARD PROCEDURES**

In connection with any contract to be partially financed by a loan from the Bank, the Borrower may, before the final contract is signed, either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation. If a contract award procedure is cancelled, all tenderers must be notified in writing and as soon as possible of the reasons for the cancellation.

Cancellation may occur where:

- a) the tender procedure has been unsuccessful, i.e., no qualitatively or financially worthwhile tender has been received or there is no response at all;
- b) the economic or technical data of the project have been fundamentally altered;
- c) exceptional circumstances or force majeure render normal performance of the contract impossible;
- d) all technically compliant tenders exceed the financial resources available;
- e) there have been irregularities in the procedure, in particular where these have prevented fair competition.

If a contract award procedure is cancelled, all tenderers must be notified in writing and as soon as possible of the reasons for the cancellation.

A cancellation notice must be published in the event that a tender is cancelled.

After cancelling a tender procedure, the Borrower may decide:

- to launch a new tender procedure;
- to open negotiations with one or more tenderers who comply with the selection criteria and have submitted technically compliant tenders, provided that the original terms of the contract have not been substantially altered (**this option is not available if the reason for cancellation is that there have been irregularities in the tender procedure which may have prevented fair competition**);
- not to award the contract.

Whatever the case, the final decision is taken by the Borrower.

The Borrower shall promptly inform the Bank.

In no event will the Borrower be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender even if the Borrower has been advised of the possibility of damages. The publication of a procurement notice does not commit the Borrower to implement the programme or project announced.

## **I.17 APPEALS**

Tenderers believing that they have been harmed by an error or irregularity during the award process may petition the Borrower directly. The Borrower must reply within 90 days of receipt of the complaint.

The borrower shall promptly inform the Bank of the complaint received.

If an amicable solution between the complainant (tenderer) and the Borrower fails, the tenderer may have recourse to procedures established under the beneficiary country's national legislation.

Should a Borrower fail to adhere to the contract award procedure provided for in this Guideline, the Bank reserves the right to cancel that portion of the loan allocated to finance the contract or to suspend further disbursements or can require the reimbursement of the loan allocated to that contract.

## **II. INTERNATIONAL COMPETITIVE BIDDING**

### **II.1 INTRODUCTION**

The objective of International Competitive Bidding (ICB), as described in these Guidelines, is to provide all eligible prospective bidders with timely and adequate notification of a Borrower's requirements and an equal opportunity to bid for the required goods and works.

### **II.2 TYPE AND SIZE OF CONTRACTS**

The bidding documents shall clearly state the type of contract to be entered into.

The size and scope of individual contracts will depend on the magnitude, nature and location of the project. For projects requiring a variety of goods and works, separate contracts generally are awarded for the supply and/or installation of different items of equipment and for the works.

Small and large firms could be allowed, at their option, to bid for individual contracts (portions) or for a group of similar contracts (package). All bids and combinations of bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest evaluated cost to the Borrower.

In certain cases, the Bank may accept or require a turnkey contract under which the design and engineering, the supply and installation of equipment and the construction of a complete facility or works are provided under one contract.

### **II.3 NOTIFICATION AND ADVERTISING**

Timely notification of bidding opportunities is essential in competitive bidding. For projects, that include ICB's, the Borrower is required to prepare a draft General Procurement Notice. The Notice shall contain information concerning the Borrower (or prospective Borrower), amount and purpose of the loan, scope of procurement under ICB, and the name and address of the Borrower's agency responsible for procurement. If known, the scheduled date for availability of pre-qualification or of bidding documents should be indicated. The related pre-qualification or bidding documents shall not be released to the public earlier than the date of publication of the Notice.

Invitations to pre-qualify or to bid, as the case may be, shall be advertised as Specific Procurement Notices in at least one newspaper of national circulation in the Borrower's country (and in the official gazette, if any). Such invitation for ICB should also be published in the international newspaper. Notification shall be given in sufficient time to enable prospective bidders to obtain pre-qualification or bidding documents and prepare and submit their responses.

### **II.4 PREQUALIFICATION OF BIDDERS**

Pre-qualification is usually necessary for large or complex works, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom-designed equipment, industrial plant, specialised services, and contracts to be let under turnkey, design and build, or management contracting. This also ensures that invitations to bid are extended only to those who have adequate capabilities and resources. Pre-qualification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account:

- experience and past performance on similar contracts,

- capabilities with respect to personnel, equipment, and construction or manufacturing facilities,
- financial position.

The scope of the contract and a clear statement of the requirements for qualification shall be sent to those who responded to the invitation. All such applicants that meet the specified criteria shall be allowed to bid. Borrowers shall inform all applicants of the results of pre-qualification. As soon as pre-qualification is completed, the bidding documents shall be made available to the qualified prospective bidders. For pre-qualification for groups of contracts to be awarded over a period of time, a limit for the number or total value of awards to any one bidder may be made on the basis of the bidder's resources. The list of pre-qualified firms in such instances shall be updated periodically. Verification of the information provided in the submission for pre-qualification shall be confirmed at the time of award of contract, and award may be denied to a bidder that is judged to no longer have the capability or resources to successfully perform the contract.

## **II.5 THE BIDDING DOCUMENT**

The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the goods and works to be provided. While the details and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid; instructions to bidders; form of bid; form of contract; conditions of contract, both general and special; specifications and drawings; relevant technical data (including geological and environmental nature); list of goods or bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities. The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their printing and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. The Borrower shall use, when possible, internationally recognised standard conditions of contract and contract forms.

## **II.6 VALIDITY OF BIDS**

Bidders shall be required to submit bids valid for a period specified in the bidding documents which shall be sufficient to enable the Borrower to complete the comparison and evaluation of bids and obtain all the necessary approvals so that the contract can be awarded within that period.

## **II.7 LANGUAGE**

Pre-qualification and bidding documents shall be prepared by the Borrower in either English or French, and shall specify which the governing language of those documents is. However, contracts entered into with local bidders may, at the Borrower's option, be in the national language, which shall be the governing language for such contracts. If the contract is signed in a language other than one of the two languages noted above the Borrower may be requested to provide the Bank with a translation of the contract in which the bidding documents were prepared.

## **II.8 CLARITY OF BIDDING DOCUMENTS**

Bidding documents shall be so worded as to permit and encourage international competition and shall set forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions. The bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids. All prospective bidders shall be provided the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis. Any additional information, clarification, correction of errors or modifications of bidding documents shall be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. If necessary, the deadline shall be extended.

## **II.9 STANDARDS AND SPECIFICATION**

The Borrower shall use internationally accepted standards as far as possible. Where such international standards are unavailable or are inappropriate, national standards may be specified. In all cases, the bidding documents shall state that equipment, material or workmanship meeting other standards, which assure, at least, substantial equivalence, will also be accepted. The use of Brand names should be avoided.

## **II.10 TENDER PRICES**

Bids for goods shall be invited on the basis of INCOTERM 2000:

- For all goods manufactured abroad including those previously imported: CIP (place of destination) prices which include cost, carriage, and insurance in the case of transportation (the duty remains the responsibility of the Borrower).
- For goods manufactured or assembled in the country of the Borrower EXW (ex works, ex factory or off-the-shelf) prices which shall include all duties, sales, and other taxes already paid or payable for the components and raw materials used in the manufacture or assembly of the equipment, or the prior import of the equipment, offered in the bid.
- In the case of turnkey contracts, the bidder shall be required to quote the price of the installed plant at site, including all costs for supply of equipment. Unless otherwise specified in the bidding documents, the turnkey price shall include all duties, taxes, and other levies.
- Bidders for works contracts shall be required to quote unit prices or lump sum prices for the performance of the works, and such prices shall include all duties, taxes and other levies.

### **II.10.1 PRICE ADJUSTMENT**

Bidding documents shall state if

- bid prices will be fixed
- or that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labour, equipment, materials, and fuel.

Prices may be adjusted by the use of prescribed formulae which breaks down the total price into components that are adjusted by price indices specified for each



component or, alternatively, on the basis of documentary evidence (including actual invoices) provided by the supplier or contractor. The use of the formula method of price adjustment is preferable to that of documentary evidence.

The method to be used shall be clearly defined in the bidding documents.

If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied to avoid incorrect adjustment.

## **II.11 CURRENCY OF BID**

Bidding documents shall state the currency or currencies in which bidders are to state their prices in order to:

- ensure that bidders have the opportunity to minimise any exchange risk with regard to the currency of bid and of payment, and hence may offer their best prices;
- give bidders in countries with weak currencies the option to use a stronger currency and thus provide a firmer basis for their bid price;
- ensure fairness and transparency in the evaluation process.

The Borrower may require bidders to state the portion of the bid price representing local costs in the currency of the country of the Borrower or to state the bid price entirely in the local currency, identifying the requirements for payments in foreign currencies for expected inputs from outside the Borrower's country, expressed as a percentage of the bid price, together with the exchange rates used in such calculations.

For the purpose of comparing prices, bid prices shall be converted to a single currency selected by the Borrower (local currency or fully convertible foreign currency) and stated in the bidding documents. The Borrower shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source (such as the Central Bank) for similar transactions on a date selected in advance. Such source and date shall be specified in the bidding documents, provided that the date is not earlier than 30 days prior to the deadline for the receipt of bids, nor later than the original date for the expiry of the period of bid validity.

Payment of the contract price shall be made in the currency or currencies in which the bid price is expressed in the bid of the successful bidder.

When the bidder has requested payment in foreign currencies (expressed as a percentage of the bid price), the exchange rates to be used for the payments shall be those specified by the bidder in the bid, so as to ensure that the value of the foreign currency portions of the bid is maintained without any loss or gain.

The Bank may require, in order to minimise any exchange risk with regard to the currency of bid and of payment, to state the bid price of all goods offered from abroad entirely in EURO or other international currency. The loan agreement shall outline these arrangements.

The exchange rates of local currencies vs EURO, to be used for the payments of goods shall be selected in advance and specified in the bid, so as to ensure that the value of the bid is maintained without any loss or gain.



## **II.12 PAYMENT TERMS AND PROCEDURES**

Payment terms shall be in accordance with the international commercial practices applicable to the specific goods and works.

- Contracts for supply of goods shall provide for full payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning.
- Contracts for works shall provide advances on contractor's equipment and materials, regular progress payments, and reasonable retention amounts to be released upon compliance with the contractor's obligations under contract. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works shall also be specified.

Bidding documents shall specify the payment method and terms offered, whether alternative payment methods and terms would be allowed and, if so, under what circumstances. The method of payment shall take into account the available procedures for withdrawals of the proceeds of the loan.

## **II.13 CONDITIONS OF CONTRACT**

The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of the Borrower and of the supplier or contractor, and the functions and authority of the engineer, architect, or construction manager, if one is employed by the Borrower, in the supervision and administration of the contract. In addition to the general conditions of contract, any special conditions particular to the specific goods or works to be procured and the location of the project shall be included.

Bidding documents for works shall require security in an amount sufficient to protect the Borrower in case of breach of contract by the contractor. This security shall be provided in an appropriate form and amount, as specified by the Borrower in the bidding document shall provide as security. A portion of this security shall extend sufficiently beyond the date of completion of the works to cover the defects liability or maintenance period up to final acceptance by the Borrower.

Provisions for damages or similar provisions shall be included in the conditions of contract when delays in the delivery of goods, completion of works or failure of the goods or works to meet performance requirements would result in extra cost or loss of revenue or loss of other benefits to the Borrower.

The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered default if such failure is the result of an event of force majeure as defined in the conditions of contract.

The conditions of contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. The Bank shall not be named arbitrator or be asked to name an arbitrator.

In case of works contracts, supply and installations contracts and turnkey contracts, the dispute settlement provision shall also include mechanisms such as dispute review boards or adjudicators which are designed to permit a speedier dispute settlement.

## **II.14 TIMING FOR PREPARATION OF BIDS**

Prescribed time limits for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the project and the magnitude and complexity of the contract. Generally, not less than 45 days from the date of the invitation to bid or the date of availability of bidding documents, whichever is later, shall be allowed for ICB. Where large works or complex items of equipment are involved, this period shall be not less than 90 days to enable prospective bidders to conduct investigations before submitting their bids. Bidders shall be permitted to submit bids by mail or by hand. The deadline and place for receipt of bids shall be specified in the invitation to bid.

## **II.15 BID OPENING PROCEDURE**

The time for the bid opening shall be the same as for the deadline for receipt of bids and shall be announced, together with the place for bid opening, in the invitation to bid. The Borrower shall open all bids at the stipulated time and place. Bids shall be opened in presence of the bidders or their representatives. The name of the bidder and total amount of each bid and of any alternative bids if they have been requested or permitted, shall be read aloud and recorded when opened. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

Bidders shall not be requested or permitted to alter their bids after the deadline for receipt of bids. The Borrower shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing.

After the public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the award of contract is notified to the successful bidder.

## **II.16 EVALUATION AND COMPARISON OF BIDS**

The Borrower shall ascertain whether the bids:

- meet the eligibility requirements specified in paragraph 1.6 of these Guidelines,
- have been properly signed,
- are accompanied by the required securities,
- are substantially responsive to the bidding documents,
- are otherwise generally in order.

If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions and specifications in the bidding documents, it shall not be considered further. The bidder shall not be permitted to correct or withdraw material deviations or reservations once bids have been opened.

The purpose of bid evaluation is to determine the cost to the Borrower of each bid in a manner that permits a comparison on the basis of their evaluated cost.

The bid price read out at the bid opening shall be adjusted to correct any arithmetical errors. Also, for the purpose of evaluation, adjustments shall be made for any quantifiable nonmaterial deviations or reservations. Price adjustment provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation.

The evaluation and comparison of bids shall be CIP (place of destination) prices for the supply of imported goods and EXW prices for goods manufactured within the Borrower's country, together with prices for any required installation, training, commissioning and other similar services.

Bidding documents shall also specify the relevant factors in addition to price to be considered in bid evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated bid. The factors other than price to be used for determining the lowest evaluated bid shall, to the extent practicable, be expressed in monetary terms, or given a relative weight in the evaluation provisions in the bidding documents.

The Borrower shall prepare a detailed report on the evaluation and comparison of bids setting forth the specific reasons on which the recommendation is based for the award of the contract.

At the request of the Borrower, and under conditions to be agreed under the Loan Agreement and set forth in the bidding documents, a margin of preference, under prescribed conditions (Section I.6), may be given in the evaluation of bids, when comparing bids from eligible domestic firms with those from foreign firms, for:

- I. goods manufactured in the country of the Borrower
- II. works performed by domestic Contractors.

Borrowers shall complete evaluation of bids and award of contract within the initial period of bid validity so that extensions are not necessary. An extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from all bidders before the expiration date. Whenever an extension of bid validity period is requested, bidders shall not be requested or be permitted to change the quoted (base) price or other conditions of their bid. If the bidding documents require a bid security bidders may exercise their right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid shall be required to provide a suitable extension of bid security.

If bidders have not been pre-qualified, the Borrower shall determine whether the bidder whose bid has been determined to offer the lowest evaluated cost has the capability and resources to effectively carry out the contract as offered in the bid. The criteria to be met shall be set out in the bidding documents, and if the bidder does not meet them, the bid shall be rejected. In such an event, the Borrower shall make a similar determination for the next lowest evaluated bidder.

## **II.17 AWARD OF CONTRACT**

The Borrower shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined to be substantially responsive to the bidding documents and to offer the lowest evaluated cost. A bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

Rejection of all bids is justified when there is lack of effective competition, or bids are not substantially responsive.(see I.16) If all bids are rejected, the Borrower shall review the causes justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids.

If the rejection of all bids is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the bids being non responsive, new bids may be invited from the initially pre-qualified firms.

All bids shall not be rejected and new bids invited on the same bidding and contract documents solely for the purpose of obtaining lower prices. If the lowest evaluated responsive bid exceeds the Borrower's pre-bid cost estimates by a substantial margin, the Borrower shall investigate causes for the excessive cost and consider requesting new bids as described in the previous paragraphs. Alternatively, the Borrower may negotiate with the lowest evaluated bidder to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility that can be reflected in a reduction of the contract price. However, substantial reduction in the scope or modification to the contract documents may require re-bidding.

The Bank shall be promptly informed of these negotiations.

The Borrower shall submit to the Bank a report containing the result of the tender evaluation and its recommendation for award of the contract, as defined in the Loan Agreement. The Bank has the right to review the finding and the recommendations as final step in establishing the eligibility of this project for financing.

## **II.18 MODIFIED ICB**

Where the loan provides financing for a program of imports ICB with simplified advertising and currency provisions may be used for large value contracts. The simplified provisions for notification of ICB procurement do not require a General Procurement Notice. The period allowed for submission of bids may be reduced to 4 weeks. Bidding and payment may be limited to one currency widely used in international trade.

### **III. OTHER METHODS OF PROCUREMENT**

Other procurement is normally carried out in accordance with procedures followed by the private or public entity handling the imports, or other established commercial practices acceptable to the Bank.

The Bank's policies with respect to margin of preference for domestically manufactured goods and works contracts do not apply to method of procurement other than ICB. The following paragraphs describe the generally used method of procurement.

#### **III.1 GENERAL**

There are circumstances where ICB would not be the most economic and efficient method of procurement, and where other methods are deemed more appropriate.

#### **III.2 LIMITED INTERNATIONAL BIDDING**

Limited International Bidding (LIB) is essentially ICB by direct invitation without open advertisement, where the contract values are small, or there is only a limited number of suppliers.

Under LIB, Borrowers shall seek bids from a list of potential suppliers broad enough to assure competitive prices, such list to include all suppliers when there are only a limited number.

#### **III.3 NATIONAL COMPETITIVE BIDDING**

National Competitive Bidding (NCB) is the competitive bidding procedure normally used for public procurement in the country of the Borrower, and may be the most appropriate way of procuring goods or works which, by their nature or scope, are unlikely to attract foreign competition.

To be acceptable for use in Bank-financed procurement these procedures shall be reviewed and modified (such modification shall be reflected in the Loan Agreement) as necessary to assure broad consistency with the provisions included in Section I of these guidelines.

NCB may be the most appropriate method of procurement where foreign bidders are not expected to be interested because the contract values are small, the works are scattered geographically or spread over time or the goods or works are available locally at prices below the international market. NCB procedures may also be used where the advantages of ICB are clearly outweighed by the administrative or financial burden involved.

Bidding documents may be only in a national language of the Borrower's country, and the currency of the country of the Borrower is generally used for the purposes of bidding and payment. In addition, the bidding documents shall provide clear instruction on how to bid should be submitted, how prices should be offered and the place and time for submission of Bid. Adequate response time for preparation and submission of bids shall be provided. The procedures shall provide for adequate competition in order to ensure reasonable prices, and methods used in the evaluation of bids and the award of contracts shall be objective and made known to all bidders in the bidding documents and not be applied arbitrarily. The procedures shall also include public opening of bids, publication of results of evaluation and of the award of contract and rules for the bidder to contest. If foreign firms wish to participate under these circumstances, they shall be allowed to do so.



### **III.4 SHOPPING**

Shopping is a procurement method based on comparing price quotations obtained from several Suppliers (in the case of goods), or from several Contractors (in the case of civil works) with a minimum three, to assure competitive prices, and is an appropriate method for procuring readily available off-the-shelf goods or standard specification commodities or simple civil works of a small value. Requests for quotations shall indicate the description and quantity of the goods or specification of works, as well as desired delivery (or completion) time and place. Quotations may be submitted by telex or facsimile or electronic means. The evaluation of quotations shall follow the same principle as of opening bidding. The terms of the accepted offer shall be incorporated in a purchase order or brief contract.

### **III.5 DIRECT CONTRACTING**

Direct contracting without competition (single source) may be an appropriate method under the following circumstances:

- An existing contract for goods or works, awarded in accordance with procedures acceptable to the Bank may be extended for additional goods or works of a similar nature. The Bank shall be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable. Provisions for such an extension, if considered likely in advance, shall be included in the original contract.
- Standardisation of equipment or spare parts, to be compatible with existing equipment, may justify additional purchases from the original supplier. For such purchases to be justified, the original equipment shall be suitable, the number of new items shall generally be less than the existing number, the price shall be reasonable, and the advantages of another make or source of equipment shall have been considered and rejected on grounds acceptable to the Bank.
- The required equipment is proprietary and obtainable only from one source.
- The contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee.
- In exceptional cases such as in response to natural disasters.

### **III.6 BORROWERS OWN RESOURCES**

The use of the borrower's own personnel and equipments may be justified where:

- quantities of work involved cannot be defined in advance;
- works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices;
- work is required to be carried out without disrupting ongoing operations;
- risks of unavoidable work interruption are better borne by the Borrower than by a contractor; and
- there are emergencies needing prompt attention.



### **III.7 COMMUNITY PARTICIPATION IN PROCUREMENT**

Where, in the interest of project sustainability, or to achieve certain specific social objectives of the project, it is desirable in selected project components to call for the participation of local communities or increase the utilisation of local know-how and materials, or employ labour-intensive and other appropriate technologies, the procurement procedures, specifications, and contract packaging shall be suitably adapted to reflect these considerations, provided these are efficient.

### **III.8 PROCUREMENT AGENTS**

Where, Borrowers lack the necessary organisation, resources and experience, Borrower may wish (or may be required by the Bank) to employ, as their agent, a firm specializing in handling Procurement. The Agent shall follow all procurement procedures provided for in the Loan Agreement on behalf of the Borrower including the review procedures and documentation.

## **IV. PROCUREMENT OF CONSULTANT SERVICES**

### **IV.1 GENERAL**

The Bank and its borrowers may employ Consultants<sup>5</sup> to provide expert advice and consulting services. The procedures for selecting consultants and contracting for their services should be flexible and transparent to ensure that assignments can be efficiently executed with high standards of performance, while providing the necessary accountability. The procedures described below shall be followed for consultant contracts to be included in the project costs.

As in the case of other contracts in Bank-financed projects, the borrower is responsible for managing and administering the consultant's work to ensure high performance standards, authorising payments, making contract changes as may be needed, resolving claims and disputes, ensuring timely and satisfactory completion of the assignment, and evaluating the performance of consultants.

### **IV.2 CONSULTANT SELECTION PROCEDURE**

The selection process for consultants normally involves the following steps:

- Defining the scope, objectives and estimated budget of the proposed assignment and determining the selection procedure to be followed;
- Identifying consultants that are qualified to perform the required services and preparing a short list of qualified firms;
- Inviting proposals from the short-listed firms;
- Evaluating and comparing capabilities and proposals and selecting the consultant;
- Negotiating a contract with the selected consultant.

### **IV.3 SHORT LIST**

Short lists of consultants should normally include no less than three and no more than six qualified and experienced consultants. The list should normally comprise a wide geographic spread of consultants, including wherever possible at least one qualified consultant from one of the Bank's countries of operations and normally no more than two from any one country.

No affiliate of the borrower shall be included on a short list unless it can be demonstrated that there is not a significant degree of common ownership, influence or control between the borrower and the affiliate and that the affiliate would not be placed in a position where its judgement in the execution of the assignment may be biased.

### **IV.4 EVALUATION AND SELECTION**

For large assignments, complex or specialised assignments, or operations involving a significant number of similar assignments, a formal proposal, including all published procurement notices, shall be prepared by the borrower.

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<sup>5</sup> The term *consultants* includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, United Nations (UN) agencies and other multinational organizations, investment and merchant banks, universities, research institutions, government agencies, nongovernmental organizations (NGOs), and individuals.

The invitation for proposals should clearly state the criteria for evaluating the short list of firms. The evaluation of consultants should normally be based only on technical considerations including, but not limited to, experience in similar assignments, local experience and presence, qualifications of key personnel proposed for the assignment, and suitability and quality of the work plan. For some assignments of a straightforward technical nature, the price of the services can be a secondary consideration but quality should remain the principal factor in selection.

#### **IV.5 OTHER EVALUATION AND SELECTION**

Competition through a short list is preferred; however, in some circumstances it may be necessary or advantageous to engage or continue with a specific firm, where:

- the firm has unique expertise or experience;
- the firm has been or is involved in the early phases of the project such as feasibility or design and it has been determined that continuity is necessary and no advantage would be gained from following competitive procedures.

#### **IV.6 BANK REVIEW**

Where consultants are being engaged by a borrower, the qualifications, experience and terms and conditions of employment of consultants shall be satisfactory to the Bank. The Bank may review the proposed scope of services and terms of reference, the proposed short list of firms, the recommendation for consultant selection and the final contract to ensure that the assignment is eligible for Bank financing. The Loan Agreement will specify the contracts subject to review.

If the Bank finds that the procurement or administration of a contract has not been carried out in accordance with the agreed procedures, the contract would no longer be eligible for partial financing with the proceeds of the loan and the outstanding portion of the loan allocated to the contract would be cancelled.