



Policies for the Selection and  
Contracting of Consultants financed  
by the Inter-American Development  
Bank

GN-2350-10

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*Proposed additions to the Policy are reflected in color red text, the same shall be found within the corresponding "Comment Form", please use such form to provide comments by sending it via email [procurement@iadb.org](mailto:procurement@iadb.org) no later than March 31<sup>st</sup> 2019*

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**ACRONYMS, ABBREVIATIONS AND DEFINED TERMS**

<b>Abbreviation or Term</b>	<b>Full terminology or Definition</b>
Business Day	Any day that is an official working day of the Borrower. It excludes the Borrower's official public holidays.
Core Procurement Principles (CPP)	The Bank's Core Procurement Principles (value for money, economy, efficiency, integrity, fit-for-purpose, efficiency, equal opportunity, development of domestic industries, and transparency) are as set out in this Policy
CQS	Selection Based on Consultants' Qualifications
FBS	Selection under a Fixed Budget
IDB	Inter-American Development Bank
IFI	International Financial Institution
ITC	Instructions to Consultants
LCS	Least-Cost Selection
LOI	Letter of Invitation
NGO	Nongovernmental Organization
PCD	Project Concept Document
NIA	Notification of Intention to Award
OECD	Organization for Economic Development and Cooperation
PAs	Procurement Agents
PR	Project Report
QBS	Quality-Based Selection
QCBS	Quality- and Cost-Based Selection
RFP	Request for Proposal
SSS	Single-Source Selection
SWAps	Sector Wide Approaches
TOR	Terms of Reference
UN	United Nations
UNDB	United Nations Development Business
VfM	Value for Money means the effective, efficient, and economic use of resources, which requires the evaluation of relevant costs and benefits, along with an assessment of risks and of nonprice attributes and/or life-cycle costs, as appropriate. Price alone may not necessarily represent VfM.

## I. Introduction

### Purpose

- 1.1 The purpose of this document is to define the Bank's policies and explain procedures for selecting, contracting, and monitoring consultants required for projects that are financed in whole or in part by the Bank<sup>1</sup> or by funds administered by the Bank<sup>2</sup> and executed by beneficiaries.
- 1.2 The Loan Contract governs the legal relationships between the Borrower and the Bank, and the Policies apply to the selection and contracting of consultants for the project as provided in the Loan Contract. The rights and obligations of the Borrower<sup>3</sup> and the consultant are governed by the specific Request for Proposals (RFP)<sup>4</sup> issued by the Borrower and by the contract signed by the Borrower with the consultant, and not by these Policies or the Loan Contract. No party other than the parties to the Loan Contract shall derive any rights therefrom or have any claim to loan proceeds.
- 1.3 For the purpose of these Policies, the term *consultants*<sup>5</sup> includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, Specialized Agencies<sup>6</sup> and other multinational organizations, investment and merchant banks, universities, research institutions, government agencies, nongovernmental organizations (NGOs), and individuals.<sup>7</sup> Bank Borrowers use these organizations as consultants to help in a wide range of activities such as policy advice; institutional reforms; management; engineering services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation and implementation of projects to complement Borrowers' capabilities in these areas.

### General Considerations

- 1.4 The Borrower is responsible for preparing and implementing the project, and therefore for selecting the consultant, and awarding and subsequently administering the contract. While the specific rules and procedures to be followed for contracting consultants depend on the circumstances of the particular case, **the following Bank's Core Procurement Principles** guide the Bank's policy on the selection process:
  - (a) **Value for Money: The principle of VfM means the effective, efficient, and economic use of resources, which requires an evaluation of relevant costs and benefits, along with an**

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<sup>1</sup> References in these Policies to the "*Bank*" include both the Inter-American Development Bank and the funds administered by the Bank and references to "*loans*" include all the financing instruments and methods, the technical cooperations, and the financing of operations. References to "*Loan Contract*" include all the legal instruments through which Bank operations are formalized.

<sup>2</sup> In case the agreement providing for the fund administered conflicts with these provisions, such agreement will prevail.

<sup>3</sup> In some cases, the Borrower acts only as an intermediary and the project is carried out by another agency or entity. References in these Policies to the Borrower include such agencies and entities, as well as Sub-Borrowers under "onlending arrangements." The term "Borrower" also includes "Beneficiaries" in the case of non-reimbursable operations financed by the Bank.

<sup>4</sup> See Appendix 2.

<sup>5</sup> Auditors and auditing firms performing independent audits are not considered consultants but their selection is subject to the policies set out in paragraph 3.20 of these Policies.

<sup>6</sup> Specialized Agencies are agencies affiliated with public international organizations that can be contracted by Borrowers as consultants, as procurement agents or as suppliers, with financing from the Bank. For the purpose of these Policies, Specialized Agencies shall be considered consultants and the same rules shall apply.

<sup>7</sup> See paragraphs. 3.15-3.21 for particular types of consultants. Individual consultants are covered in Section V.

assessment of risks, and non-price attributes and/or life cycle costs, as appropriate. Price alone may not necessarily represent VfM;

- (b) the need for high-quality services;
  - (c) **Economy and Efficiency** in the implementation of the project, including the procurement of the services involved;
  - (d) the need to give all qualified consultants an opportunity to compete in providing the services financed by the Bank;
  - (e) the Bank's interest in encouraging the development and use of national consultants in its borrowing member countries;
  - (f) **Fit for Purpose**: The principle of fit for purpose applies both to the intended outcomes and the procurement arrangements in determining the most appropriate approach to meet the project development objectives and outcomes, considering the context and the risk, value, nature, and complexity of the procurement; and
  - (g) **Integrity**: The principle of integrity refers to Bank's financing being used for its intended purposes and good governance practices, and requires that all parties involved in the procurement process observe the highest standard of ethics during the procurement process of Bank's financed contracts and execution of the project, and refrain from Prohibited Practices, in accordance with paragraph 1.23.
- 1.5 The Bank considers that, in the majority of cases, these considerations can best be addressed through competition among qualified short-listed firms in which the selection is based on the quality of the proposal and, where appropriate, the cost of the services to be provided. Sections II and III of these Policies describe the different methods for the selection of consultants accepted by the Bank and the circumstances in which they are appropriate **to develop procurement procedures that are fit-for-purpose, reflect the optimal Value for Money throughout the procurement cycle and the Bank's core procurement principles are respected**. Since Quality- and Cost-Based Selection (QCBS) is the most commonly recommended method, Section II of these Policies describes in detail the procedures for QCBS. However, QCBS is not the most appropriate method of selection for all cases; therefore, Section III describes other methods of selection and the circumstances in which they are more appropriate.
- 1.6 The particular methods that may be followed for the selection of consultants under a given project are provided for in the Loan Contract. The specific contracts to be financed under the project, and their method of selection, consistent with the provisions of the Loan Contract, shall be specified in the Procurement Plan as indicated in paragraph 1.25 of these Policies.

### **Applicability of Policies**

- 1.7 The consulting services to which these Policies apply are of an intellectual and advisory nature. These Policies do not apply to other types of services in which the physical aspects of the activity predominate (for example, construction of works, manufacture of goods, operation and maintenance of facilities or plant, surveys, exploratory drilling, aerial photography, satellite imagery, and services contracted on the basis of performance of measurable physical output).<sup>8</sup>
- 1.8 The procedures outlined in these Policies apply to all contracts for consulting services financed in whole or in part from Bank loans or grants or funds administered by the Bank<sup>9</sup> implemented by the Borrower. In procuring consulting services not financed from such sources, the Borrower may adopt other procedures, provided that it demonstrates to the Bank's satisfaction that: (a) the procedures to be used will result in the selection of consultants who have the necessary professional qualifications; (b) the selected consultant will carry out the assignment in accordance with the agreed schedule; and (c) the scope of the services is consistent with the needs of the project.

### **Alternative Procurement Arrangements**

- 1.9 At the Borrower's request, the Bank may, subject to its policies, rules and applicable operational requirements, agree to rely on and apply the procurement rules and procedures of another multilateral or bilateral agency or organization and may agree to such a party taking a leading role in providing the implementation support and monitoring of procurement activities through mutual reliance agreements. Such agreements shall be consistent with the Bank's Core Procurement Principles and the provisions set forth in paragraph 1.4 and ensure that the Bank's Prohibited Practices and Sanctions Procedures, and contractual remedies set forth in its legal agreements with the Borrower, permit reliance on those policies of the designated lead institution.

### **Use of Country System**

- 1.10 At the Borrower's request, the Bank may rely on and apply the procurement rules, procedures and systems of the Borrower at national or subnational level, or agency of the Borrower when meeting international standards according to the Bank's assessments<sup>10</sup> and is acceptable for the Bank.

### **Conflict of Interest**

- 1.11 Bank policy requires that consultants provide professional, objective, and impartial advice and at all times hold the client's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their

<sup>8</sup> These latter services are bid and contracted on the basis of performance of measurable physical outputs and procured in accordance with the *Policies for the Procurement of Goods and Works Financed by the Inter-American Development Bank*, referred to herein as the Procurement Policies.

<sup>9</sup> To the extent that the Administered Fund Agreement does not conflict with these provisions, in which case the Agreement will prevail. The Policies for Procurement by the private sector are specified in Appendix 4.

<sup>10</sup> Normally, the Bank applies the Methodology for Assessment Procurement Systems (MAPS) developed by IFIs and OECD.

prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Borrower. Without limitation to the generality of the foregoing, consultants shall not be hired under the circumstances set forth below:

- (a) Conflict between consulting activities and procurement of goods, works, or services (other than consulting services covered by these Policies<sup>11</sup>): A firm that has been engaged by the Borrower to provide goods, works, or services (other than consulting services covered by these Policies) for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works, or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works, or services (other than consulting services covered by these Policies) resulting from or directly related to the firm's consulting services for such preparation or implementation.
- (b) Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering designs for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.
- (c) Relationship with Borrower's staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with a member of the Borrower's staff (or of the project implementing agency's staff, or of a beneficiary of the loan) who are directly or indirectly involved in any part of: (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract, may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the contract.

#### **Unfair Competitive Advantage**

- 1.12 Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Borrower shall make available to all the short-listed consultants, together with the Request for Proposals, all information that would in that respect give a consultant a competitive advantage.

#### **Eligibility**

- 1.13 Funds from Bank loans can be used only for payment of services rendered by individuals or firms from member countries of the Bank. Individuals or firms from other countries shall be ineligible to participate in contracts to be financed in whole or in part from Bank loans. Any other conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question. However,
- (a) Consultants may be excluded if: (i) as a matter of law or official regulations, the Borrower's country prohibits commercial relations with the consultant's country, provided that the Bank

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<sup>11</sup> See paragraph 1.7 of these Policies.



is satisfied that such exclusion does not preclude effective competition for the procurement of the consulting services required; or (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any payments to any country, person, or entity. Where the Borrower's country prohibits payments to a particular firm or for particular goods by such an act of compliance, that firm may be excluded.

- (b) Government-owned enterprises or institutions 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.
- (c) As an exception to (b), when the services of government-owned universities or research centers in the Borrower's country are of a unique and exceptional nature and their participation is critical to project implementation, the Bank may agree on the contracting of those institutions on a case-by-case basis. On the same basis, university professors or scientists from research institutes may be contracted individually under Bank financing.
- (d) Government officials and civil servants may only be hired under consulting contracts, either as individuals or as members of a team of a consulting firm, if they (i) are on leave of absence without pay; (ii) are not being hired by the agency they were working for immediately before going on leave; and (iii) their employment would not create a conflict of interest (see paragraph 1.11).
- (e) Any firm, individual, parent company, subsidiary, or previous form of organization constituted by or with any of the same individual(s) as principal(s) declared ineligible by the Bank in accordance with subparagraph (b)(v) and subparagraph (e) of paragraph 1.23 of these Policies concerning Prohibited Practices (as defined in paragraph 1.23) or declared ineligible by another International Financial Institution (IFI) and subject to agreements that the Bank may have for the mutual enforcement of sanctions shall be ineligible to be awarded a Bank-financed contract or to benefit from a Bank-financed contract, financially or in any other manner, during such period of time as the Bank shall determine.

#### **Advance Contracting and Retroactive Financing**

- 1.14 In certain circumstances, such as to accelerate project implementation, the Borrower may, with the Bank's approval, wish to proceed with the selection of consultants before the related Loan Contract is signed. This process is referred to as advance contracting. In such cases, the selection procedures, including advertisement, shall be in accordance with **Bank's Core Procurement Principles** and the Bank shall review the process used by the Borrower. A Borrower undertakes such advance contracting at its own risk and any "no objection" issued by the Bank with regard to the procedures, documentation, or proposal for award does not commit the Bank to make a loan for the project in question. If the contract is signed, reimbursement by the Bank of any payments made by the Borrower under the contract prior to loan signing is referred to as retroactive financing and is only permitted within the limits specified in the Loan Contract.

#### **Associations between Consultants**

- 1.15 Consultants may associate with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise, strengthen the technical responsiveness of their proposals and make available bigger pools of experts, provide better approaches and methodologies and, in some cases, to offer lower prices. Such an association may

be for the long term (independent of any particular assignment) or for a specific assignment. If the Borrower employs an association in the form of a joint venture, the association should appoint one of the firms to represent the association; all members of the joint venture shall sign the contract and shall be jointly and severally liable for the entire assignment. Once the short list is finalized and Requests for Proposals (RFP) are issued, any association in the form of joint venture or sub-consultancy among short-listed firms shall be permissible only with the approval of the Borrower. Borrowers shall not require consultants to form associations with any specific firm or group of firms, but may encourage association with qualified national firms.

#### **Bank Review, Assistance, and Monitoring**

- 1.16 The Bank reviews the Borrower's hiring of consultants to determine to its satisfaction that the selection process is carried out in accordance with the provisions of **Bank's Core Procurement Principles**. The review procedures are described in Appendix 1.
- 1.17 Under special circumstances, and in response to a written request from the Borrower, the Bank may furnish to the Borrower a short list of firms that it deems capable of undertaking the assignment. The provision of the list does not represent an endorsement of the consultants.
- 1.18 The Borrower is responsible for supervising the consultants' performance and ensuring that they carry out the assignment in accordance with the contract. Without assuming the responsibilities of the Borrower or the consultants, Bank staff shall monitor the work as necessary to determine to the Bank's satisfaction, that it is being carried out according to appropriate standards and is based on acceptable data. As appropriate, the Bank may take part in discussions between the Borrower and consultants and, if necessary, may help the Borrower in addressing issues related to the assignment. If a significant portion of project preparation work is being carried out in the consultants' home offices, Bank staff may, with the Borrower's agreement, visit these offices to review the consultants' work.

#### **Misprocurement**

- 1.19 The Bank does not finance expenditures for consulting services if the consultants have not been selected or the services have not been contracted in accordance with the agreed provisions of the Loan Contract and the Procurement Plan<sup>12</sup> approved by the Bank. **In such cases, the Bank may exercise other remedies provided for under the Loan Contract, take other appropriate actions, including declaring misprocurement.** Even once the contract is awarded after obtaining a "no objection" from the Bank, the Bank may still declare misprocurement if it concludes that the "no objection" was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower or that the terms and conditions of the contract had been modified without the Bank's approval.

#### **References to the Bank**

- 1.20 The Borrower shall use the following language<sup>13</sup> when referring to the Bank in the RFP and contract documents:

*"The [name of Borrower or Beneficiary] (hereinafter called "Borrower") has applied for or received financing (herein after called "funds") from the Inter-American Development Bank (hereinafter called "Bank") toward the cost of the project named in the Data Sheet. The Borrower intends to apply a portion of the funds to eligible*

<sup>12</sup> See paragraph 1.25.

<sup>13</sup> To be suitably modified in the case of a grant or administered funds.

payments under the Contract for which this Request for Proposal is issued. Payments by the Bank will be made only at the request of the Borrower and upon approval by the Bank in accordance with the terms and conditions of the financing contract between the Borrower and the Bank (hereinafter called “Loan Contract”) and will be subject in all respects to the terms and conditions of that Loan Contract. No party other than the Borrower shall derive any rights from the Loan Contract or have any claim to the funds.”

#### **Training or Transfer of Knowledge**

- 1.21 If the assignment includes an important component for training or transfer of knowledge to Borrower staff or national consultants, the TOR shall indicate the objectives, nature, scope, and goals of the training program, including details on trainers and trainees, skills to be transferred, time frame, and monitoring and evaluation arrangements. The cost for the training program shall be included in the consultant’s contract and in the budget for the assignment.

#### **Language**

- 1.22 The RFP and the proposals shall be prepared in one of the following languages, selected by the Borrower: English, French, Spanish, or Portuguese. The RFP, the contract and all correspondence and documents relating to the proposal exchanged by the consultant and the Borrower shall be written in the language specified in the RFP. Supporting documents and printed literature that are part of the proposal may be in another language provided they are accompanied by a translation of the relevant passages in the language specified in the RFP, in which case, for purposes of interpretation of the proposals, such translation shall govern.

#### **Prohibited Practices**

- 1.23 The Bank requires that all Borrowers (including grant Beneficiaries), the Executing Agencies and Contracting Agencies, as well as all firms, entities, and individuals bidding for or participating in a Bank-financed activity including, *inter alia*, applicants, bidders, contractors, consulting firms and individual consultants, personnel, sub-contractors, sub-consultants, service providers or suppliers (including their respective officers, employees and agents irrespective of whether the agency is express or implied) adhere to the highest ethical standards, and report to the Bank<sup>14</sup> all suspected acts of Prohibited Practices of which it has knowledge or becomes aware, during the selection process and throughout the negotiation or execution of a contract. Prohibited Practices include acts of (a) corrupt practices, (b) fraudulent practices, (c) coercive practices, (d) collusive practices, and (v) obstructive practices. The Bank has established mechanisms to report allegations of Prohibited Practices. Any allegation shall be submitted to the Bank’s Office of Institutional Integrity (OI) for the appropriate investigation. The Bank has also adopted Sanctions Procedures to adjudicate cases. The Bank has also entered into agreements with other IFIs to mutually recognize sanctions imposed by their respective sanctioning bodies. In pursuance of this policy:

- (a) The Bank defines, for the purposes of this provision, the following terms:

<sup>14</sup> Information on how to present allegations of Prohibited Practices, the applicable rules regarding the investigation and sanctions process, and the agreement regulating the mutual recognition of sanctions among the IFIs are available on the Bank’s website ([www.iadb.org/integrity](http://www.iadb.org/integrity))

- (i) A “*corrupt practice*” is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
  - (ii) A “*fraudulent practice*” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
  - (iii) A “*coercive practice*” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - (iv) A “*collusive practice*” is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party; and
  - (v) An “*obstructive practice*” is:
    - (aa) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or making false statements to investigators in order to materially impede a Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
    - (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under paragraph 1.23 (f) below.
- (b) If, in accordance with the Sanctions Procedures of the Bank, it is determined that at any stage of the procurement or implementation of a contract any firm, entity or individual bidding for or participating in a Bank-financed activity including, *inter alia*, applicants, bidders, contractors, consulting firms and individual consultants, personnel, sub-contractors, sub-consultants, service providers or suppliers, borrowers (including grant Beneficiaries), Executing Agencies and Contracting Agencies (including their respective officers, employees and agents irrespective of whether the agency is express or implied) engaged in a Prohibited Practice, the Bank may:
- (i) not finance any proposal to award a contract for consultant services financed by the Bank;
  - (ii) suspend disbursement of the operation if it is determined at any stage that an employee, agent or representative of the Borrower, Executing Agency, or Contracting Agency has engaged in an act of Prohibited Practices;
  - (iii) declare Misprocurement and cancel, and/or accelerate the payment of, the portion of a loan or grant earmarked for a contract, when there is evidence that the representative of the Borrower, or grant Beneficiary, has not taken the adequate remedial measures (including, *inter alia*, providing adequate notice to the Bank upon learning of the Prohibited Practice) within a time period which the Bank considers reasonable;
  - (iv) issue the firm, entity or individual a reprimand in the form of a formal letter of censure for its behavior;
  - (v) declare that a firm, entity or individual is ineligible, either permanently or for a stated period of time, to: (i) be awarded or participate in activities financed by the Bank; and (ii)

be a nominated<sup>15</sup> sub-consultant, sub-contractor, supplier or service provider of an otherwise eligible firm being awarded a Bank-financed contract;

- (vi) refer the matter to appropriate law enforcement authorities; and/or
- (vii) impose other sanctions that it deems to be appropriate under the circumstances, including the imposition of fines representing reimbursement of the Bank for costs associated with investigations and proceedings. Such other sanctions may be imposed in addition to or in lieu of the sanctions referred to above.
- (c) The provisions of sub-paragraphs 1.23 (b) (i) and (ii) shall also be applicable when such parties have been temporarily suspended from eligibility to be awarded additional contracts pending a final outcome of a sanction proceeding, or otherwise.
- (d) Any action taken by the Bank pursuant to the provisions referred to above will be public.
- (e) In addition, any firm, entity or individual bidding for or participating in a Bank-financed activity including, inter alia, applicants, bidders, contractors, consulting firms and individual consultants, personnel, sub-contractors, sub-consultants, service providers or suppliers, Borrowers (including grant Beneficiaries), Executing Agencies or Contracting Agencies (including their respective officers, employees, and agents, irrespective of whether the agency is express or implied) may be subject to sanctions pursuant to agreements that the Bank may have with other IFIs regarding the mutual enforcement of debarment decisions. For purposes of this subparagraph, the term "sanction" shall include any debarment, conditions on future contracting or any publicly-disclosed action taken in response to a violation of an IFI's applicable framework for addressing allegations of Prohibited Practices.
- (f) The Bank requires that, a provision be included in the RFP and in contracts financed with a Bank loan or grant, requiring consultants, their applicants, bidders, contractors, agents, personnel, sub-consultants, sub-contractors, service providers or suppliers to permit the Bank to inspect any and all accounts, records and other documents relating to the submission of proposals and contract performance, as well as to have them audited by auditors appointed by the Bank. Under this policy, the consultants and their agents, personnel, sub-consultants, sub-contractors, service providers or suppliers shall fully assist the Bank with its investigation. The Bank will also have the right to require that, in contracts financed with a Bank loan or grant, a provision be included requiring consultants and their agents, personnel, sub-consultants, sub-contractors, service providers or suppliers to: (i) maintain all documents and records related to the Bank-financed activities for seven (7) years after completion of the work contemplated in the relevant contract; (ii) require the delivery of any document necessary for the investigation of allegations of Prohibited Practices; and make available employees or agents of the consultant with knowledge of the Bank-financed activities to respond to questions from Bank personnel or any properly designated investigator, agent, auditor or consultant relating to the investigation. If the consultant, its agent, personnel, sub-consultant, sub-contractor, service provider or supplier fails to cooperate and/or comply with the Bank's requests, or otherwise obstructs the Bank's investigation, the Bank, in its sole

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<sup>15</sup> A nominated sub-consultant, sub-contractor, supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

discretion, may take appropriate action against the consultant, its agent, personnel, sub-consultant, sub-contractor, service provider or supplier.

- (g) The Bank will require that, when a Borrower selects a specialized agency to provide technical assistance services in accordance with paragraph 3.15, under an agreement between the Borrower and such specialized agency, all provisions under paragraph 1.23 regarding sanctions and Prohibited Practices shall apply in their entirety to the applicants, bidders, contractors, consulting firms and individual consultants, personnel, sub-contractors, sub-consultants, service providers or suppliers (including their respective officers, employees and agents, irrespective of whether the agency is express or implied) or any other entities that signed contracts with such specialized agency to supply such goods or provide related services in connection with the Bank-financed activities. The Bank retains the right to require the Borrower to invoke remedies such as suspension or termination. Specialized agencies shall consult the Bank's list of firms and individuals suspended or debarred. In the event a specialized agency signs a contract or purchase order with a firm or an individual suspended or debarred by the Bank, the Bank will not finance the related expenditures and will apply other remedies as appropriate.

- 1.24 With the specific agreement of the Bank, a Borrower may introduce into the RFP for large contracts financed by the Bank, a requirement that the consultant include in the proposal an undertaking of the consultant to observe, in competing for and executing a contract, **the country's laws against Prohibited Practices (including bribery), and the regulations of a Multilateral Development Bank or International Development Agency related to Prohibited Practices as applicable**, as listed in the RFP.<sup>16</sup> The Bank will accept the introduction of such a requirement at the request of the Borrowing country, provided the arrangements governing such undertaking are satisfactory to the Bank.

#### Procurement Plan

- 1.25 As part of the preparation of the project, the Borrower shall prepare and, before Loan negotiations, furnish to the Bank for its approval, a Procurement Plan<sup>17</sup> acceptable to the Bank setting forth: (a) the particular contracts for consulting services required to carry out the project during an initial period of at least 18 months; (b) the proposed methods for selection of consultants' services; and (c) the related Bank review procedures.<sup>18</sup> The Borrower shall update the Procurement Plan annually or as needed throughout the execution of the project. The Borrower shall implement the Procurement Plan in the manner in which it has been approved by the Bank.

<sup>16</sup> 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 observe the laws against fraud and corruption in force in the country of the Borrower, as such laws have been listed by the Borrower in the RFP for this contract and, without prejudice to the Bank's procedures to deal with cases of **Prohibited Practices**, adhere to the administrative norms set by the [local authority] to receive and resolve all complaints regarding bidding procedures."

<sup>17</sup> If the Project includes the procurement of goods, works, and non-consulting services, the Procurement Plan should also include the methods for procurement of goods, works, and non-consulting services in accordance with the *Policies for Procurement of Goods and Works Financed by the Inter-American Development Bank*. The Bank will disclose the initial Procurement Plan to the public after the related loan has been approved; additional updates will be disclosed after the Bank has approved them.

<sup>18</sup> See Appendix 1.

**Procurement Complementary Support**

- 1.26 The Bank may agree to provide the Borrower with Procurement Complementary Support (PCS) where the Borrower, or as, appropriate, the member country, and when as deemed by the Bank:
- (a) weaknesses in the execution capacity of the borrower have been identified; or
  - (b) in cases of complex or innovative procurement and contracting processes.
- 1.27 PCS shall not result in the Bank's executing procurement on behalf of the Borrower, and project execution remains the Borrower's responsibility. The scope and nature of such support is determined by the Bank on a case-by-case basis.

**Electronic Procurement Systems**

- 1.28 Bank encourages Borrowers' to continually modernize their procurement systems, including, incorporating electronic procurement elements that ensure Bank's Core Procurement Principles. Borrowers may use electronic procurement systems (e-Procurement) for aspects of the procurement process, including: issuing SDB, and addenda, receiving proposals, quotations, and carrying out other procurement actions or methods, such as an electronic reverse auction, provided the Bank is satisfied with the adequacy of the system, including its accessibility, security and integrity, confidentiality, and audit trail features.

**Sustainable Procurement**

- 1.29 If agreed with the Bank, the Borrower may include additional sustainability requirements in the procurement process, including their own sustainable procurement policy requirements, if they are applied in a manner that is consistent with the Bank's Core Procurement Principles.

## **II. Quality- and Cost-Based Selection (QCBS)**

### **The Selection Process**

- 2.1. QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.
- 2.2. The selection process shall include the following steps:
  - (a) preparation of the TOR;
  - (b) preparation of cost estimate and the budget;
  - (c) advertising;
  - (d) preparation of the short list of consultants;
  - (e) preparation and issuance of the RFP [which should include: the Letter of Invitation (LOI); Instructions to Consultants (ITC); the TOR; and the proposed draft contract];
  - (f) receipt of proposals;
  - (g) evaluation of technical proposals: consideration of quality;
  - (h) public opening of price proposals;
  - (i) evaluation of price proposal;
  - (j) final evaluation of quality and cost; and
  - (k) negotiations and award of the contract to the selected firm.

### **Terms of Reference (TOR)**

- 2.3. The Borrower shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by a person(s) or a firm specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys). However, TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The Borrower's and consultants' respective responsibilities should be clearly defined in the TOR.

### **Cost Estimate (Budget)**

- 2.4. Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the Borrower's assessment of the resources



needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used); and (b) reimbursables, and further divided into foreign and local costs. The cost of staff time shall be estimated on a realistic basis for foreign and national personnel.

### **Advertising**

- 2.5. For all projects, the Borrower is required to prepare and submit to the Bank a draft General Procurement Notice. The Bank will arrange for its publication in *UN Development Business online* (*UNDB online*) and in the Bank's Internet website.<sup>19</sup> To obtain expressions of interest, the Borrower shall include a list of expected consulting assignments in the General Procurement Notice,<sup>20</sup> and shall advertise a Specific Procurement Notice requesting expressions of interest for each contract for consulting firms in a newspaper of national circulation in the Borrower's country or in the official gazette (if it is available on the Internet), or electronic portal of free access where the Borrower advertises all government business opportunities. In addition, contracts expected to cost more than US\$200,000 shall be advertised in *UNDB online* and on the Bank's Internet website. Borrowers may also advertise requests for expressions of interest in an international newspaper or a technical magazine. The information requested shall be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Not less than 14 days from the date of posting on *UNDB online* shall be provided for responses, before preparation of the short list.

### **Short List of Consultants**

- 2.6. The Borrower is responsible for preparation of the short list. The Borrower shall give first consideration to those firms expressing interest that possess the relevant qualifications. Short lists shall comprise six firms with a wide geographic spread, with no more than two firms from any one country and at least one firm from a Bank Borrowing member country, unless qualified firms from Bank Borrowing member countries are not identified. The Bank may agree to short lists comprising a smaller number of firms in special circumstances, for example, when only a few qualified firms have expressed interest for the specific assignment or when the size of the contract does not justify wider competition. For the purpose of establishing the short list, the nationality of a firm is that of the country in which it is legally incorporated or constituted and in the case of Joint Venture, the nationality of the firm appointed to represent the Joint Venture. The Bank may agree with the Borrower to expand or reduce a short list; however, once the Bank has issued a "no objection" to a short list, the Borrower shall not add or delete names without the Bank's approval. Firms that expressed interest, as well as any other firm that specifically so requests, shall be provided the final short list of firms.

<sup>19</sup> UNDB is a publication of the United Nations. Subscription information is available from: Development Business, United Nations, GCPO Box 5850, New York, N.Y. 10163-5850, U.S.A. (Website: [www.devbusiness.com](http://www.devbusiness.com); e-mail: [dbusiness@un.org](mailto:dbusiness@un.org)). The Inter-American Development Bank's Internet website is <http://www.iadb.org>.

<sup>20</sup> The General Procurement Notice is prepared by the Borrower and submitted to the Bank, which will arrange for its publication in *United Nations Development Business* (UNDB online) and on the Internet website of the *Inter-American Development Bank* (<http://www.iadb.org>).

- 2.7. The short list may comprise entirely national consultants, if the assignment is below the ceiling (or ceilings) established in the Procurement Plan approved by the Bank,<sup>21</sup> a sufficient number of qualified firms is available for having a short list of firms with competitive costs, and when competition including foreign consultants is prima facie not justified or foreign consultants have not expressed interest.<sup>22</sup> These same amounts will be used in Bank lending operations supporting Sector Wide Approaches (SWAs)<sup>23</sup> (in which government and/or donor funds are pooled) as the threshold below which short lists will be composed entirely of national firms selected under procedures agreed with the Bank. However, if foreign firms express interest, they shall be considered.
- 2.8. The short list should preferably comprise consultants of the same category, similar capacity and business objectives. Consequently, the short list should be composed of firms of similar experience or of not-for-profit organizations (NGOs, universities, Specialized Agencies, etc.) acting in the same field of expertise. If mixing is used, the selection should be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualifications (CQS) (for small assignments).<sup>24</sup> The short list shall not include individual consultants

### **Limited Competition**

- 2.9. **Limited competition selection in which the Borrowers prepares a Shortlist without advertisement. It may be appropriate when there are limited number of qualified Consultants that carry out the subject assignment, or other justifiable exceptional reasons. Borrowers shall seek EOIs from a list of potential Consultants that is broad enough to ensure adequate competition.**

### **Preparation and Issuance of the Request for Proposals (RFP)**

- 2.10. The RFP shall include: (a) a Letter of Invitation; (b) Instructions to Consultants, (c) the TOR, and (d) the proposed contract. Borrowers shall use the applicable standard RFPs issued by the Bank with minimal changes, acceptable to the Bank, as necessary to address project-specific conditions. Any such changes shall be introduced only through the RFP data sheet. Borrowers shall list all the documents included in the RFP. The Borrower may use an electronic system to distribute the RFP, provided that the Bank is satisfied with the adequacy of such system. If the RFP is distributed electronically, the electronic system shall be secure to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

<sup>21</sup> Dollar ceilings shall be determined in each case, taking into account the nature of the project, the capacity of national consultants and the complexity of the assignments. The ceiling (or ceilings) shall not in any case exceed the amount defined **by the Bank** for the Country of the Borrower. The dollar ceilings for each borrowing country will be posted on the Bank's website.

<sup>22</sup> The Borrower may include in the short list of national consultants any firm from another Bank member country that is registered in the Borrower's country.

<sup>23</sup> SWAs represent an approach by development agencies to support country-led programs whose scale is greater than a single project. It typically encompasses an entire sector or large portions of one.

<sup>24</sup> Dollar thresholds defining "small" shall be determined in each case, taking into account the nature and complexity of the assignment, but shall not exceed US\$200,000.

### **Letter of Invitation (LOI)**

- 2.11. The LOI shall state the intention of the Borrower to enter into a contract for the provision of consulting services, the source of funds, the details of the client, and the date, time and address for submission of proposals.

### **Instructions to Consultants (ITC)**

- 2.12. The ITC shall contain all necessary information that would help consultants prepare responsive proposals, and shall bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors and their respective weights and the minimum passing quality score. The ITC shall indicate an estimate of the level of key staff inputs (in staff time) required of the consultants or the total budget, but not both. Consultants, however, shall be free to prepare their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals. The ITC shall specify the proposal validity period, which should be adequate for the evaluation of proposals, decision on award, Bank review, and finalization of contract negotiations. A detailed list of the information that should be included in the ITC is provided in Appendix 2.

### **Contract**

- 2.13. Section IV of these Policies briefly discusses the most common types of contracts. Borrowers shall use the appropriate Standard Form of Contract issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address specific country and project issues. Any such changes shall be introduced only through the Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Bank's Standard Contracts. These forms of contract cover the majority of consulting services. When these forms are not appropriate (for example, for preshipment inspection, procurement services, training of students in universities, advertising activities in privatization, or twinning), Borrowers shall use other contract forms acceptable to the Bank.

### **Receipt of Proposals**

- 2.14. The Borrower shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarifications in writing about the information provided in the RFP. The Borrower shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals). If necessary, the Borrower shall extend the deadline for submission of proposals. The technical and price proposals shall be submitted at the same time. No amendments to the technical or price proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and price proposals shall be submitted in separate sealed envelopes. The technical envelopes shall be opened immediately by a committee of officials drawn from the relevant departments (technical, finance, legal, as appropriate), after the closing time for submission of proposals. The price proposals shall remain sealed and shall be deposited with a reputable public auditor or independent authority until they are opened publicly. Any proposal received after the closing time for submission of proposals shall be returned unopened. Borrowers may use electronic systems permitting consultants to submit proposals by electronic means, provided the Bank is satisfied with the adequacy of the system, including, *inter alia*, that the system is secure, maintains the confidentiality and authenticity of proposals submitted, and uses an authentication system or equivalent to keep consultants bound to their

proposals. In this case, consultants shall continue to have the option to submit their proposals in hard copy.

### Evaluation of Proposals: Consideration of Quality and Cost

- 2.15. Evaluation criteria and methodology shall be specified in the detail in the RFP. The evaluation criteria and methodology shall be appropriate for the type, nature, market conditions, and complexity of what is being procured. The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the price proposals until the technical evaluation, including any Bank reviews and “no objection,” is concluded. Price proposals shall be opened only after the evaluation of technical proposals has concluded and the results have been notified to the participating consultants. The evaluation shall be carried out in full conformity with the provisions of the RFP.

### Evaluation of the Quality

- 2.16. The Borrower shall evaluate each technical proposal (using an evaluation committee of three or more specialists in the sector), taking into account several criteria: (a) the consultant’s relevant experience for the assignment; (b) the quality of the methodology proposed, including innovation, sustainable criteria; (c) the qualifications of the key staff proposed; (d) transfer of knowledge, if required in the TOR; and (e) the extent of participation by nationals among key staff in the performance of the assignment. Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become scores. The following weights are indicative. The actual percentage figures to be used shall fit the specific assignment, nature, market conditions, innovation and complexity, and shall be within the ranges indicated below, except with the approval of the Bank. The proposed weights shall be disclosed in the RFP.

Consultant’s specific experience:	0 to 10 points
Methodology:	20 to 50 points
Key personnel:	30 to 60 points
Transfer of knowledge: <sup>25</sup>	0 to 10 points
Participation by nationals: <sup>26</sup>	0 to 10 points
Total:	100 points

- 2.17. The Borrower shall normally divide these criteria into subcriteria. For example, subcriteria under methodology might be *innovation* and *level of detail*. However, the number of subcriteria should be kept to the essential. The Bank recommends against the use of exceedingly detailed lists of subcriteria that may render the evaluation a mechanical exercise more than a professional assessment of the proposals. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).

<sup>25</sup> Transfer of knowledge may be the main objective of some assignments; in such cases, it shall be indicated in the TOR and, only with Bank prior approval, may be given a higher weight to reflect its importance.

<sup>26</sup> As reflected by nationals among key staff presented by foreign and national firms.

- 2.18. Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Borrower shall review the qualifications and experience of proposed key personnel in their *curricula vitae*, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed. The individuals shall be rated in the following three subcriteria, as relevant to the task:
- (a) general qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;
  - (b) adequacy for the assignment: education, training and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
  - (c) experience in the region: knowledge of the local language, culture, administrative system, government organization, and so forth.
- 2.19. Borrowers shall evaluate each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve a minimum technical score specified in the RFP.
- 2.20. At the end of the process, the Borrower shall prepare a Technical Evaluation Report of the “quality” of the proposals and, in the case of contracts subject to ex-ante review, submit it to the Bank for its review and “no objection.” The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

#### **Evaluation of Cost**

- 2.21. After the evaluation of quality is completed and the Bank has issued its “no objection,” the Borrower shall inform the consultants who have submitted proposals, the technical points assigned to each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered nonresponsive to the RFP and TOR that their price proposals will be returned unopened after the signature of the contract. The Borrower shall simultaneously notify the consultants that have secured the minimum qualifying mark, the date, time, and place set for opening the price proposals. The opening date shall be defined allowing sufficient time for consultants to make arrangements to attend the opening of the price proposals. The price proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical points, and the proposed prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the price proposals are opened, and a copy of this record shall be promptly sent to the Bank. The Borrower shall also prepare the minutes of the public opening and a copy of this record shall be promptly sent to the Bank and to all consultants who submitted proposals.
- 2.22. The Borrower shall then review the price proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a single currency selected by the Borrower (local currency or fully convertible foreign currency) as stated in the RFP. 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) or by a commercial bank or by an internationally circulated newspaper for similar transactions. The RFP shall specify the source

of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than four weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposal.

- 2.23. For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes<sup>27</sup> on the contract and income tax payable to the country of the Borrower on the remuneration of services rendered in the country of the Borrower by non-resident staff of the consultant. The cost shall include all consultant’s remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the marks for the price. The methodology to be used shall be described in the RFP.

#### **Combined Quality and Cost Evaluation**

- 2.24. The total score shall be obtained by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. Except for the type of services specified in Section III, the weight for cost shall be 20 or 30 points out of a total score of 100. The proposed weightings for quality and cost shall be specified in the RFP. The firm obtaining the highest total score shall be invited for negotiations.

#### **Best and Final Offer**

- 2.25. In international competitive procurement subject to prior review, the Bank may agree to the Borrower’s use of Best and Final Offer (BAFO). BAFO is an option under which the Borrower invites bidders that have submitted substantially responsive Proposals to submit their best and final offer. Such a process may be appropriate when the procurement process would benefit from bidders’ having a final opportunity to improve their Proposals, including by reducing prices, clarifying or modifying their Proposals, or providing additional information. The Borrower shall inform bidders in the bidding documents whether:

- (a) if a BAFO is to be used
- (b) that bidders are not obliged to submit a BAFO; and
- (c) that there will be no negotiation after the BAFO.

#### **Negotiations and Award of Contract**

- 2.26. Negotiations shall include discussions of the TOR, the methodology, staffing, the Borrower’s inputs, and special conditions of the contract, **to award the contract to the most advantageous proposal, which means the best evaluated proposal. These discussions** shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the budget. **For complex consulting services and innovative solutions, where the Borrower may not know the best solution available in the market, the Bank may agree to discuss on the original TORs or the terms of the contract, the final product, its cost to get the most**

<sup>27</sup> All indirect taxes levied on the contract invoices, at National, State (or Provincial), and Municipal levels.

**advantageous proposal.** The final TOR and the agreed methodology shall be incorporated in “Description of Services,” which shall form part of the contract.

- 2.27. The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment.<sup>28</sup> If this is not the case and if it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.
- 2.28. Price negotiations shall include clarification of the consultants’ tax liability in the Borrower’s country (if any) and how this tax liability has been or would be reflected in the contract. As Lump-Sum Contracts payments are based on delivery of outputs (or products), the offered price shall include all costs (staff time, overhead, travel, hotel, etc.). Consequently, if the selection method for a Lump-Sum contract included price as a component, this price shall not be negotiated. In the case of Time-based Contracts, payment is based on inputs (staff time and reimbursables) and the offered price shall include staff rates and an estimation of the amount of reimbursables. When the selection method includes price as a component, negotiations of staff rates should not take place, except in special circumstances, like for example, staff rates offered are much higher than typically charged rates by consultants for similar contracts. Consequently, the prohibition of negotiation does not preclude the right of the client to ask for clarifications, and, if fees are very high, to ask for change of fees, after due consultation with the Bank. Reimbursables are to be paid on actual expenses incurred at cost upon presentation of receipts and therefore are not subject to negotiations. However, if the client wants to define ceilings for unit prices of certain reimbursables (like travel or hotel rates), they should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP.
- 2.29. If the negotiations fail to result in an acceptable contract, the Borrower shall terminate the negotiations and invite the next ranked firm for negotiations. The Borrower shall consult with the Bank prior to taking this step. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Borrower shall not reopen the earlier negotiations. After negotiations are successfully completed and the Bank has issued its “no objection”<sup>29</sup> to the initialed negotiated contract, the Borrower shall promptly notify other firms on the short list that they were unsuccessful.

#### **Publication of the Award of Contract**

- 2.30. After the award of contract, the Borrower shall publish in *UNDB online*, on the Bank’s Internet website and, when appropriate, on the Borrower country’s sole official Internet website the following information: (a) the names of all consultants who submitted proposals; (b) the technical points assigned to each consultant; (c) the evaluated prices of each consultant; (d) the final point ranking of the consultants; and (e) the name of the winning consultant and the price, duration, and summary scope of the contract. The same information shall be sent to all consultants who have submitted proposals.

<sup>28</sup> Defining realistic proposal validity periods in the RFP and carrying out an efficient evaluation minimizes this risk.

<sup>29</sup> For contracts subject to the Bank’s ex-ante review.

### **Standstill Period**

- 2.31. At the Borrowers request, the Bank may agree to adopt this mechanism in order to give bidders time to examine the award and to assess whether it is appropriate to submit a complaint.
- 2.32. The standstill period shall begin when the Borrower's Notification of Intention to Award<sup>30</sup> is sent to the bidders. The standstill period shall last ten (10) Business Days after such transmission date, unless otherwise extended. The contract shall not be awarded either before or during the standstill period.
- 2.33. Notwithstanding the above, there shall not be a requirement for a standstill period in the following situations:
  - (a) only one Proposal was submitted in an open competitive process;
  - (b) direct contracting; and
  - (c) Emergency Situations recognized by the Bank
- 2.34. At the end of the standstill period, if the Borrower has not received any complaint from an unsuccessful bidder, the Borrower shall proceed to award the contract in accordance with its decision to award, as previously communicated through the Notification of Intention to Award.
- 2.35. For contracts subject to prior review, when no complaints are received by the Borrower within the standstill period, the Borrower shall proceed to award the contract in accordance with the award recommendation that had previously received the Bank's no objection. Borrower shall inform the abovementioned situation to the Bank within three (3) Business Days of such award.
- 2.36. The Borrower shall transmit the notification of award to the successful bidder along with other documents as specified in the bidding documents for the contract.
- 2.37. If the Borrower does receive a complaint from an unsuccessful bidder within the standstill period, the Borrower shall not proceed with the contract award until the complaint has been addressed, as set forth under Appendix 3.
- 2.38. For contracts subject to prior review by the Bank, the Borrower shall not proceed with contract award without receiving the Bank's confirmation of satisfactory resolution of complaint. For contracts subject to prior review by the Bank, the Borrower shall not proceed with contract award without receiving the Bank's confirmation of satisfactory resolution of complaint. For contracts subject to ex post review by the Bank, the Borrower shall proceed in accordance with Appendix 3.

### **Debriefing by the Borrower**

- 2.39. In Notification of Intention to Award referred to in paragraph 2.32 or the publication of the contract award referred to in paragraph 2.30, the Borrower shall specify that any consultant who

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<sup>30</sup> Notification of Intention to Award (NIA) is a written notice transmitted to each bidder that submitted a Proposal, informing them of the intention to award the contract to the successful bidder.



wishes to ascertain the grounds on which its proposal was not selected, should request an explanation from the Borrower. The Borrower shall promptly provide the explanation as to why such proposal was not selected, either in writing and/or in a debriefing meeting, at the option of the consultant. The requesting consultant shall bear all the costs of attending such a debriefing.

#### **Rejection of All Proposals, and Re invitation**

- 2.40. The Borrower will be justified in rejecting all proposals only if all proposals are nonresponsive because they present major deficiencies in complying with the TOR or if they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated in consultation with the Bank. Before all the proposals are rejected and new proposals are invited, the Borrower shall notify the Bank, indicating the reasons for rejection of all proposals, and shall obtain the Bank's "no objection" before proceeding with the rejection and the new process. The new process may include revising the RFP (including the short list) and the budget. These revisions shall be agreed upon with the Bank.

#### **Confidentiality**

- 2.41. Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, **until the publication of the award of contract notification of intention of contract award or publication of contract award, as applicable or agreed with the Bank for the process**, except as provided in paragraphs 2.21 and 2.29.

### III. Other Methods of Selection

#### General

- 3.1. This section describes the selection methods other than QCBS, and the circumstances under which they are acceptable. All the relevant<sup>31</sup> provisions of Section II (QCBS) shall apply whenever competition is used.

#### Quality-Based Selection (QBS)

- 3.2. QBS is appropriate for the following types of assignments:
- (a) complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multisectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
  - (b) assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
  - (c) assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).
- 3.3. In QBS, the RFP may request submission of a technical proposal only (without the price proposal), or request submission of both technical and price proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.
- 3.4. If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Borrower shall ask the consultant with the highest ranked technical proposal to submit a detailed price proposal. The Borrower and the consultant shall then negotiate the price proposal<sup>32</sup> and the contract. All other aspects of the selection process shall be identical to those of QCBS, including the publication of the award of contract as described in paragraph 2.30 except that only the price of the winning firm is published. If consultants were requested to provide price proposals initially together with the technical proposals, safeguards shall be built in as in QCBS to ensure that the price proposal of only the selected firm is opened and the rest returned unopened, after the negotiations are successfully concluded.

#### Selection under a Fixed Budget (FBS)

- 3.5. This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and price proposals in separate envelopes, within the budget. TOR

<sup>31</sup> All provisions of Section II shall be applied with the modifications and suppressions required by the method for selecting consultants used in the specific case. Advertisement for expression of interest is not required when single-source selection is used.

<sup>32</sup> Financial negotiations under QBS includes negotiations of all consultant's remuneration and other expenses.

should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated budget shall be rejected. The consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. The publication of the award of contract shall be as described in paragraph 2.30.

### **Least-Cost Selection (LCS)**

- 3.6. This method is only appropriate for selecting consultants for assignments of a standard or routine nature (for example, engineering design of noncomplex works) where well-established practices and standards exist. Under this method, a “minimum” qualifying mark for the “quality” is established. Proposals, to be submitted in two envelopes, are invited from a short list. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark<sup>33</sup> are rejected, and the price proposals of the rest are opened in public. The firm with the lowest price shall then be selected and the publication of the award of contract shall be as described in paragraph 2.30. Under this method, the minimum qualifying mark shall be established, understanding that all proposals above the minimum compete only on “cost.” The minimum qualifying mark shall be stated in the RFP.

### **Selection Based on the Consultants’ Qualifications (CQS)**

- 3.7. This method may be used for small<sup>34</sup> assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Borrower shall prepare the TOR, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment, establish a short list and select the firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-price proposal and then be invited to negotiate the contract.
- 3.8. The Borrower shall publish in *UNDB online* and on the Bank’s Internet website and, when appropriate, on the Borrower’s country sole official Internet website, the name of the consultant to which the contract was awarded, the price, duration, and scope of the contract. This publication may be done quarterly and in the format of a summarized table covering the previous period.

### **Single-Source Selection (SSS)**

- 3.9. Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of the client and the project, and the Bank’s responsibility to ensure economy and efficiency, and provide equal opportunity to all qualified consultants.
- 3.10. Single-source selection may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm **within**

<sup>33</sup> This method shall not be used as a substitute for QCBS and shall be used only for the specific cases of very standard and routine technical nature where the intellectual component is minor. For this method the minimum qualifying mark shall be 70 points or higher in a scale of 1 to 100.

<sup>34</sup> Dollar thresholds defining “small” shall be determined in each case, taking into account the nature and complexity of the assignment, but shall not exceed US\$200,000.

the last 12 months (see next paragraph); b) when there is a justifiable requirement to reengage a firm that has previously completed a contract with the Borrower to perform a similar type of Consulting Service. The justification shows that the firm performed satisfactorily under the previous contract, no advantage may be obtained by competition and the prices are reasonable; (c) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency; (d) for very small and low risk<sup>35</sup> assignments; or (e) when only one firm is qualified or has experience of exceptional worth for the assignment.

- 3.11. When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Borrower shall ask the initially selected consultant to prepare technical and price proposals on the basis of TOR furnished by the Borrower, which shall then be negotiated.
- 3.12. If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or if the downstream assignment is substantially larger in value, a competitive process acceptable to the Bank shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. The Bank will consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.
- 3.13. The Borrower shall publish in UNDB online, on the Bank's Internet website and, when appropriate, on the Borrowing country's sole official Internet website, the name of the consultant to which the contract was awarded and the price, duration, and scope of the contract. This publication may be done quarterly and in the format of a summarized table covering the previous period.

#### **Commercial Practices**

- 3.14. In the case of loans on-lent by a financial intermediary to private sector enterprises or autonomous commercial enterprises in the public sector, the Sub-Borrower may follow well-established private sector or commercial practices that have been determined by the Bank to be acceptable to it. Consideration shall also be given to the use of competitive procedures outlined earlier, particularly for large assignments.

#### **Selection of Particular Types of Consultants**

- 3.15. *Selection of Specialized Agencies as Consultants.* Specialized Agencies may be hired as the consultants where they are qualified to provide technical assistance and advice in their area of expertise. However, they shall not receive any preferential treatment in a competitive selection process, except that Borrowers may accept the privileges and immunities granted to the Specialized Agencies and their staff under existing international conventions and may agree with the Specialized Agencies on special payment arrangements required according to the agency's charter, provided these are acceptable to the Bank. To neutralize the privileges of Specialized Agencies, as well as other advantages such as tax exemption and facilities, and special payment

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<sup>35</sup> Dollar thresholds defining "very small" shall be determined in each case, taking into account the nature and complexity of the assignment, but shall not exceed US\$200,000.

provisions, the QBS method shall be used. Specialized Agencies may be hired on a single-source selection basis if the criteria outlined in paragraph 3.10 of these Policies are fulfilled.

- 3.16. *Use of Nongovernmental Organizations (NGOs).* NGOs are voluntary nonprofit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs and/or participatory approaches. NGOs may be included in the short list if they express interest, and provided that the Borrower and the Bank are satisfied with their qualifications. Borrowers should preferably not include consulting firms in the short list for services for which NGOs are better qualified. For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely NGOs. If so, the QCBS procedure shall be followed, and the evaluation criteria shall reflect the unique qualifications of NGOs, such as voluntarism, nonprofit status, local knowledge, scale of operation, and reputation. Borrowers may select the NGO on a single-source basis, provided the criteria outlined in paragraph 3.10 of these Policies are fulfilled.
- 3.17. *Procurement Agents (PAs).* When a Borrower lacks the necessary organization, resources, or experience, it may be efficient and effective for it to employ, as its agent, a firm that specializes in handling procurement. When PAs are specifically used as “agents” handling the procurement of specific items and generally working from their own offices, they are usually paid a percentage of the value of the procurements handled, or a combination of such a percentage and a fixed fee. In such cases PAs shall be selected using QCBS procedures with cost being given a weight up to 50 percent. However, when PAs provide only advisory services for procurement or act as “agents” for a whole project in a specific office, for such project they are usually paid on a time basis and, in such cases, they shall be selected following the appropriate procedures for other consulting assignments using QCBS procedures and time-based contract specified in these Policies. The agent shall follow all the procurement procedures outlined in the Loan Contract and in the Procurement Plan approved by the Bank on behalf of the Borrower, including use of Bank *Standard Request for Proposals*, review procedures and documentation.
- 3.18. *Inspection Agents.* Borrowers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the Borrower country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies shall be selected using QCBS procedures giving cost a weight up to 50 percent and using a contract format with payments based on a percentage of the value of goods inspected and certified.
- 3.19. *Banks.* Investment and commercial banks, financial firms and fund managers hired by Borrowers for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatization operations, shall be selected under QCBS. The RFP shall specify selection criteria relevant to the activity—for example, experience in similar assignments or network of potential purchasers—and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee”; this fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP shall indicate that the cost evaluation will take into account the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee shall be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores shall be based on the success fee. For the combined evaluation (notably for large contracts), cost may be accorded a weight higher than recommended in paragraph 2.24 or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the

proposal. The RFP shall specify clearly how proposals will be presented and how they will be compared.

- 3.20. *Auditors.* Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They shall be selected according to QCBS, with cost as a substantial selection factor (40-50 points) or by the “Least-Cost Selection” outlined in paragraph 3.6. For very small<sup>36</sup> assignments CQS may be used.
- 3.21. *Service Delivery Contractors.* Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, such as nurses and paramedics, **pollsters, among others**). The job descriptions, minimum qualifications, terms of employment, selection procedures, and the extent of Bank review of these procedures and documents shall be described in the project documentation and the contract shall be included in the Procurement Plan approved by the Bank.

#### **IV. Types of Contracts and Important Provisions**

##### **Types of Contracts**

- 4.1. *Lump Sum Contract.*<sup>37</sup> Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.
- 4.2. *Time-Based Contract.*<sup>38</sup> This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overhead, fee (or profit) and, where appropriate, special allowances. This type of contract shall include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily and that payments claimed by the consultants are appropriate.
- 4.3. *Retainer and/or Contingency (Success) Fee Contract.* Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatization operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

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<sup>36</sup> See footnote<sup>33</sup>

<sup>37</sup> Standard form of *Contract for Consultants' Services (Lump Sum Remuneration)*.

<sup>38</sup> Standard form of *Contract for Consultants' Services (Complex Time-Based Assignments)*. These documents are available on the Bank's website at <http://www.iadb.org>

- 4.4. *Percentage Contract.* These contracts are commonly used for architectural services. They may be also used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitively bid. It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (for example, not works supervision).
- 4.5. *Indefinite Delivery Contract (Price Agreement).* These contracts are used when Borrowers need to have “on call” specialized services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The Borrower and the firm agree on the unit rates to be paid for the experts, and payments are made on the basis of the time actually used.
- 4.6. *Framework agreement.* A Framework Agreement (FA) is an agreement established with firms or individual consultants (panel of consultants), as required over a specific period of time. The FA sets out the terms and conditions under which specific Consulting Services, can be provided directly or competitively throughout the term of agreement. FAs may be appropriate for the recurring selection of Consulting Services or to consolidate requirements when different entities of the Borrower procure the same types of Consulting Services.

#### **Important Provisions**

- 4.7. *Currency.* RFPs shall clearly state that firms may express the price for their services, in any fully convertible currency. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided the proposal includes no more than three foreign currencies. The Borrower may require consultants to state the portion of the price representing costs in the currency of the Borrower’s country. Payment under the contract shall be made in the currency or currencies in which the price is expressed in the proposal.
- 4.8. *Price Adjustment.* To adjust the remuneration for foreign and/or local inflation, a price adjustment provision shall be included in the contract if its duration is expected to exceed 18 months. Contracts of shorter duration may include a provision for price adjustment when local and/or foreign inflation is expected to be high and unpredictable.
- 4.9. *Payment Provisions.* Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for example, for mobilization costs) exceeding 10 percent of the contract amount should normally be backed by advance payment securities.
- 4.10. Payments shall be made promptly in accordance with the contract provisions. To that end:
- (a) consultants can be paid directly by the Bank at the request of the Borrower or exceptionally through a Letter of Credit;
  - (b) only disputed amounts shall be withheld, with the remainder of the invoice paid in accordance with the contract; and

- (c) the contract shall provide for the payment of financing charges if payment is delayed due to the client's fault beyond the time allowed in the contract; the rate of charges shall be specified in the contract.
- 4.11. *Bid and Performance Securities.* Bid and performance securities are not recommended for consultants' services. Their enforcement is often subject to judgment calls, they can be easily abused and they tend to increase the costs to the consulting industry without evident benefits, which are eventually passed on to the Borrower.
- 4.12. *Borrower's Contribution.* The Borrower may assign members of its own professional staff to the assignment in different capacities. The contract between the Borrower and the consultant shall give the details governing such staff, known as counterpart staff, as well as facilities that shall be provided by the Borrower, such as housing, office space, secretarial support, utilities, materials, and vehicles. The contract shall indicate measures the consultant can take if any of the items cannot be provided or have to be withdrawn during the assignment, and the compensation the consultant will receive in such a case.
- 4.13. *Conflict of Interest.* The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the client under the contract. The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with the requirements of paragraphs 1.11 and 1.12 of the Policies.
- 4.14. *Professional Liability.* The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Borrower will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that: (a) there must be no such limitation in case of the consultant's gross negligence or willful misconduct; (b) the consultant's liability to the Borrower may in no case be limited to less than a multiplier of the total value of the contract to be indicated in the RFP and in the special conditions of the contract (the amount of such limitation will depend on each specific case);<sup>39</sup> and (c) any such limitation may deal only with the consultant's liability toward the client and not with the consultant's liability toward third parties.
- 4.15. *Staff Substitution.* During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable), the consultant shall propose other staff of at least the same level of qualifications for approval by the Borrower.
- 4.16. *Applicable Law and Settlement of Disputes.* The contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. Consultants' contracts shall always include a clause for settlement of disputes. International commercial arbitration may have practical advantages over other methods for the settlement of disputes. Borrowers are, therefore, encouraged to provide for this type of arbitration. The Bank shall not be named an arbitrator or be asked to name an arbitrator.

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<sup>39</sup> The Borrower is encouraged to secure insurance for potential risks above these limits.



## V. Selection of Individual Consultants

- 5.1. Individual consultants are employed on assignments for which: (a) teams of personnel are not required; (b) no additional outside (home office) professional support is required; and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
- 5.2. Individual consultants are selected on the basis of their qualifications for the assignment. Advertisement is not required<sup>40</sup> and consultants do not need to submit proposals. Consultants shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Borrower. Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications and those selected to be employed by the Borrower shall be the best qualified and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.
- 5.3. From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these Policies shall apply to the parent firm and its affiliates.
- 5.4. Individual consultants may be selected on a sole-source basis with due justification in exceptional cases, such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments with total expected duration of less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

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<sup>40</sup> However, in some cases Borrowers may consider the advantage of advertising at their option **or if advertising is mandatory under national law.**

## Appendix 1: Review by the Bank of the Selection of Consultants

### Procurement Strategy

1. The Borrower shall prepare a procurement strategy justifying the arrangements proposed for its conformity with the Loan Contract and these Policies. The Bank shall review the procurement strategy and arrangements proposed by the Borrower as set forth in the Procurement Plan. The Procurement Plan shall be prepared on the basis of the market analysis conducted during the preparation of the procurement strategy and any fit-for-purpose considerations of the selected methods and shall cover an initial period of at least 18 months. The Borrower shall update the Procurement Plan on an annual basis or as needed always covering the next 18- month period of project implementation. Any revisions proposed to the Procurement Plan shall be furnished to the Bank for its prior approval.

### Ex-Ante Review

2. With respect to all contracts that are subject to the Bank's ex-ante review:
  - (a) Before inviting proposals, the Borrower shall furnish to the Bank for its review and "no objection" the proposed cost estimate and RFP (including the short list). The Borrower shall make such modifications to the short list and the documents as the Bank reasonably requests. Any further modification shall require the Bank's "no objection" before the RFP is issued to the short-listed consultants.<sup>41</sup>
  - (b) After the technical proposals have been evaluated, the Borrower shall furnish to the Bank, in sufficient time for its review, a technical evaluation report (prepared, if the Bank shall so request, by experts acceptable to the Bank) and a copy of the proposals, if requested by the Bank. If the Bank determines that the technical evaluation is inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination; otherwise, the Bank shall issue a "no objection" to the technical evaluation. The Borrower shall also request the Bank's "no objection" if the evaluation report recommends rejection of all proposals.
  - (c) The Borrower may proceed with the opening of the price proposals only after receiving the Bank's "no objection" to the technical evaluation. When price is a factor in the selection of the consultant, the Borrower may then proceed with the price evaluation in accordance with the provisions of the RFP. The Borrower shall furnish to the Bank, for its information, the final evaluation report along with its recommendation of the winning firm. The Borrower shall notify the firm that received the highest total score in the final evaluation of its intention to award the contract to the firm and shall invite the firm for negotiations.
  - (d) If after the notification of the intention of the contract award or the publication of the results of evaluation, as agreed with the Bank, the Borrower receives complaints from consultants, a copy of the complaint and a copy of the Borrower's response shall be sent to the Bank for "no-objection".
  - (e) If as result of analysis of a complaint the Borrower changes its contract award recommendation, the reasons for such decision and a revised evaluation report shall be

<sup>41</sup> In the case of contracts to be awarded under para. 3.12 where a new competitive process is not practicable, the Borrower shall not initiate negotiations without first furnishing to the Bank for its consideration the required justification and receiving the Bank's "no objection," and shall otherwise follow the requirements of this paragraph 2 in all relevant respects.

submitted to the Bank for “no objection.” The Borrower shall provide a re-publication of the contract award in the format of paragraph 2.30 of these Policies.

- (f) After negotiations are completed, the Borrower shall furnish to the Bank, in sufficient time for its review, a copy of the initialed negotiated contract. If the negotiated contract resulted in substitution of key staff or any changes in the TOR and original proposed contract, the Borrower shall highlight the changes and provide an explanation of why these changes are appropriate and necessary.
- (g) If the Bank determines that the final evaluation report, recommendation for award and/or negotiated contract are inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination. Otherwise, the Bank shall provide its final “no objection” to the contract award. The Borrower shall confirm the award of the contract only after receiving the “no objection” from the Bank.
- (h) Following contract signature, the Borrower shall furnish to the Bank a copy of the final contract before submitting the first application for disbursement under the contract.
- (i) The description and amount of the contract, together with the name and address of the firm, shall be subject to public disclosure by the Bank upon the Borrower’s receipt of the signed copy of the contract.

#### **Modification of the Signed Contract**

3. In the case of contracts subject to ex-ante review, before granting a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, the Borrower shall seek the Bank’s “no objection” to the proposed extension, modification, substitution, waiver, or change. If the Bank determines that the proposal would be inconsistent with the provisions of the Loan Contract and/or Procurement Plan, it shall promptly inform the Borrower and state the reasons for its determination. A copy of all amendments to the contract shall be furnished to the Bank.

#### **Ex-Post Review**

4. The Borrower shall retain all documentation with respect to each contract not governed by paragraph two (2) during project implementation and up to three (3) years after the final disbursement date of the loan. This documentation would include, but not be limited to, the signed original of the contract, the analysis of the respective proposals and recommendations for award, for examination by the Bank or by its consultants. For contracts awarded on the basis of single-source selection, it shall include the record of justification, the qualifications and experience of the consultants, and the signed original of the contract. The Borrower shall also furnish such documentation to the Bank upon request. The Bank shall, if it determines that the contract was not awarded in accordance with the agreed procedures, as reflected in the Loan Contract and further elaborated in the Procurement Plan approved by the Bank or the contract itself is not consistent with such procedures, promptly inform the Borrower that paragraph 1.19 of these Policies shall apply and state the reasons for such determination.

**Due Diligence concerning Bank's Sanctions**

5. When conducting the evaluation of proposals, the Borrower shall check the eligibility of consultants from the list of firms and individuals debarred and suspended by the Bank pursuant to paragraph 1.23 (b) and (c) of these Policies and paragraph 1.16 (b) and (c) of the Policies for the Procurement of Goods and Works that are posted on the Bank's external website and shall not make an award to any such firm or individual listed therein. For any Bank-financed activity under execution with any party that is debarred or suspended from the award of additional contracts, the Borrower shall undertake additional due diligence with close supervision and monitoring (including whether under ex-ante or ex-post review). Also, the Borrower shall not enter into any further contract with such party, including an amendment or extension of time for completion under an existing contract, without the Bank's prior approval. The Bank will only finance additional expenditures if they were incurred before the completion date of the original contract or the completion date as revised (i) for prior review contracts, in an amendment to which the Bank has given its no objection, and (ii) for post review contracts, in an amendment signed before the effective date of suspension or debarment. The Bank will not finance any new contract, or any amendment or addendum introducing a material modification to any existing contract that was signed with a suspended or debarred firm or individual on or after the effective date of suspension or debarment.

## **Appendix 2: Instructions to Consultants (ITC)**

The Borrower shall use the standard RFPs issued by the Bank, which include the ITC, covering the majority of assignments. If under exceptional circumstances, the Borrower needs to amend the standard ITC, it shall do so through the technical data sheet and not by amending the main text. The ITC shall include adequate information on the following aspects of the assignment:

- (a) a very brief description of the assignment;
- (b) standard formats for the technical and price proposals;
- (c) the names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
- (d) details of the selection procedure to be followed, including (i) a description of the two-stage process, if appropriate; (ii) a listing of the technical evaluation criteria and weights given to each criterion; (iii) the details of the financial evaluation; (iv) the relative weights for quality and cost in the case of QCBS; (v) the minimum pass score for quality; and (vi) the details on the public opening of price proposals;
- (e) an estimate of the level of key staff inputs (in staff-months) required of the consultants or the total budget, but not both;
- (f) indication of minimum experience, academic achievement, and so forth, expected of key staff;
- (g) details and status of any external financing;
- (h) information on negotiations; and financial and other information that shall be required of the selected firm during negotiation of the contract;
- (i) the deadline for submission of proposals;
- (j) currency(ies) in which the costs of services shall be expressed, compared, and paid;
- (k) reference to any laws of the Borrower's country that may be particularly relevant to the proposed consultants' contract;
- (l) a statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works, or services under the project if, in the Bank's judgment, such activities constitute a conflict of interest with the services provided under the assignment;
- (m) the method in which the proposal shall be submitted, including the requirement that the technical proposals and price proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation is not influenced by price;
- (n) a request that the invited firm: (i) acknowledges receipt of the RFP; and (ii) informs the Borrower whether or not it will be submitting a proposal;
- (o) the short list of consultants being invited to submit proposals and whether or not associations between short-listed consultants are acceptable;

- (p) the period for which the consultants' proposals shall be held valid and during which the consultants shall undertake to maintain, without change, the proposed key staff, and shall hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;
- (q) the anticipated date on which the selected consultant shall be expected to commence the assignment;
- (r) a statement indicating: (i) whether or not the consultants' contract and personnel shall be tax-free or not; if not, (ii) what the likely tax burden will be or where this information can be obtained in a timely basis and a statement requiring that the consultant shall include in its price proposal a separate amount clearly identified, to cover taxes;
- (s) if not included in the TOR or in the draft contract, details of the services, facilities, equipment; and staff to be provided by the Borrower;
- (t) phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- (u) the procedure to handle clarifications about the information given in the RFP; and
- (v) any conditions for subcontracting part of the assignment.

### Appendix 3: Guidance to Consultants

#### Purpose

1. This appendix provides guidance to consultants wishing to provide consulting and professional services financed by the Bank or through the funds it administers. **Where the Loan Contract includes provisions regarding a standstill period<sup>42</sup> allowing for complaints before the notification of award to bidders, the Bank's, Bidder's and Borrower's roles for reviewing and handling complaints shall be defined in the Loan Contract or the agreed procurement procedures between the Bank and the Borrower.**

#### Responsibility for Selection of Consultants

2. The responsibility for the implementation of the project, and therefore for the payment of consulting services under the project, rests solely with the Borrower. The Bank, for its part, is required by its Charter to take the necessary measures to ensure that the proceeds of any loan made, guaranteed, or participated in by the Bank are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency. Disbursements of the proceeds of a loan or a grant are made only at the Borrower's request. Supporting evidence that the funds are used in accordance with the Loan Contract and/or Procurement Plan (or the Administered Trust Fund Agreement) shall be submitted with the Borrower's disbursement request. Payment may be made: (a) to reimburse the Borrower for payment(s) already made from its own resources; (b) directly to a third party (to the consultant), or (c) to a commercial bank for expenditures against an Inter-American Development Bank irrevocable reimbursement guarantee agreement covering a commercial bank's letter of credit (a procedure that is exceptional in the case of consultants). As emphasized in paragraph 1.4 of these Policies, the Borrower is responsible for the selection and employment of consultants. It invites, receives, and evaluates proposals and awards the contract. The contract is between the Borrower and the consultant. The Bank is not a party to the contract.

#### Bank's Role

3. As stated in these Policies (Appendix 1), the Bank reviews the RFP, the evaluation of proposals, award recommendations and contract to ensure that the process is carried out in accordance with agreed procedures, as required in the Loan Contract and further elaborated in the Procurement Plan. For all contracts subject to Bank's ex-ante review, the Bank reviews the documents before they are issued, as described in Appendix 1. Also, if at any time in the selection process (even after the award of contract) the Bank concludes that the agreed procedures were not followed in any substantial respect, the Bank may declare misprocurement, as described in paragraph 1.19. However, if a Borrower has awarded a contract after obtaining the Bank's "no objection," the Bank will declare misprocurement only if the "no objection" was issued on the basis of incomplete, inaccurate or misleading information furnished by the Borrower. Furthermore, if the Bank determines that Prohibited Practices were engaged in by representatives of the Borrower

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<sup>42</sup> Following the decision to award the contract, the Borrower shall promptly and simultaneously provide written notification of the Borrowers intention to award the contract to the successful bidder (the Notification of Intention to Award) to all the bidders. This notification initiates the standstill period. The Borrower shall publish the Contract award notice following the expiry of the standstill period. If the Borrower receives a complaint from an unsuccessful bidder within the standstill period, the Borrower shall not proceed with the contract award until the complaint has been addressed in consultation with the Bank for ex ante review processes.

or of the consultant, the Bank may impose the applicable sanctions set forth in paragraph 1.23 (b) of these Policies.

4. The Bank publishes standard RFPs and contracts for different types of consulting services. As stated in paragraphs 2.10 and 2.13 of these Policies, it is mandatory for the Borrower to use these documents, with minimum changes acceptable to the Bank to address project-specific issues. The Borrower finalizes and issues these documents as part of the RFP.

#### **Information on Consultant Services**

5. Information on consultant services, including a brief description of the nature of services, and, when available, timing, estimated cost, staff-months, and so forth, will be, in the first instance, included in the Project Concept Document (PCD), which describes projects under preparation. Once the project has been approved, similar information will also be included in the description of each project in the IDB's Internet website under Procurement, Projects in Execution. Such information will be continuously updated. Each project requires the publication of a General Procurement Notice in the *United Nations Development Business (UNDB online)*<sup>43</sup> and on the Bank's Internet website, which will include a more detailed description of the required services, the Borrower and the budgeted cost. In the case of large-value contracts,<sup>44</sup> this will be followed by a specific notice seeking "expression of interest" in *UNDB online* and on the Bank's Internet Website. The Project Report (PR) will provide yet more detailed information.
6. Information on proposed and approved IDB projects is available on the Bank's Internet website. The Project Report is available after the loan is approved. UNDB is available through online subscription.

#### **Consultants' Role**

7. When consultants receive the RFP, and if they can meet the requirements of the TOR and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the country of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents—especially in the selection procedure and evaluation criteria—any ambiguity, omission, or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the Borrower, in writing, within the period specified in the RFP for seeking clarifications.
8. In this connection, it should be emphasized that the specific RFP issued by the Borrower governs each selection, as stated in paragraph 1.2 of these Policies. If consultants feel that any of the provisions in the RFP are inconsistent with the Policies, they should also raise this issue with the Borrower.
9. Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the *curricula vitae* of key staff submitted with the proposals. The *curricula vitae* shall be signed by the consultants and the individuals and dated. Noncompliance with important requirements will result in rejection of the proposal. Once technical proposals are received and opened, consultants shall

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<sup>43</sup> UNDB is a publication of the United Nations. Subscription information is available from: Development Business, United Nations, GCPO Box 5850, New York, N.Y. 10163-5850, U.S.A. (Website: [www.devbusiness.com](http://www.devbusiness.com); e-mail: [dbusiness@un.org](mailto:dbusiness@un.org)). The Inter-American Development Bank's Internet website is <http://www.iadb.org>.

<sup>44</sup> Contracts expected to cost more than US\$200,000 equivalent.



not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once price proposals are received, consultants shall not be required or permitted to change the quoted fee and so forth, except at the time of negotiations carried out in accordance with the provisions of the RFP. If an extension of validity of proposals was the reason that key staff were not available for a company, a change of key staff with equivalent or better qualification might be possible.

### **Confidentiality**

10. As stated in paragraph 2.41, the process of proposal evaluation shall be confidential until **notification of the intention of contract award or the publication or contract award, as applicable**, except for the disclosure of the technical points as indicated in paragraphs 2.21 and 2.29. Confidentiality enables the Borrower and the Bank's reviewers to avoid either the reality or perception of improper interference. If, during the evaluation process, consultants wish to bring additional information to the notice of the Borrower, the Bank, or both, they should do so in writing.

### **Action by the Bank**

11. If consultants wish to raise issues or questions about the selection process, they may send the Bank copies of their communications with the Borrower, or they may write to the Bank directly when the Borrower does not respond promptly or when the communication is a complaint against the Borrower. All such communications should be addressed to the Bank's Country Office in the Borrower's country with a copy to the Project Procurement Division of the Bank at its Washington, D.C. Headquarters.
12. Communications received by the Bank from short-listed consultants prior to the closing date for submission of the proposal shall be, if appropriate, referred to the Borrower with the Bank's comments and advice, for action or response.
13. Communications, including complaints that the Bank receives from consultants after the opening of the technical proposals shall be handled as follows. In the case of contracts not subject to ex-ante review by the Bank, any communication shall be sent to the Borrower for due consideration and appropriate action. The Borrower's response shall be reviewed during subsequent supervision of the project by the Bank staff. Exceptionally, if a complaint is of a particularly serious nature, the Bank may require the Borrower to send before proceeding all relevant documentation for its ex-ante review and comments as per procedures under paragraph 2 of Appendix 1. In the case of contracts subject to ex-ante review, the Bank shall examine the communication, in consultation with the Borrower, and if it needs additional information, shall request it from the Borrower. If additional information or clarification is required from the consultant, the Bank shall ask the Borrower to obtain it and comment on or incorporate it, as appropriate, in the evaluation report. The Bank's review will not be completed until the communication is fully examined and considered. Communications received from consultants involving allegations of Prohibited Practices<sup>45</sup> may warrant a different treatment due to reasons of confidentiality. In such cases, the

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<sup>45</sup> Reporting on suspected Prohibited Practices can be done directly to the Bank's Office of Institutional Integrity (OII) by email: [allegations@idbfc.org](mailto:allegations@idbfc.org) or [OII-Consult@iadb.org](mailto:OII-Consult@iadb.org); through the Inter American Development Bank's website; through the 24-hour toll free hotline: +1-877-223-4551; or by contacting OII at the Bank's Headquarters office in Washington DC: +1-202-623-1000.

Bank shall apply due care and discretion in sharing with the Borrower information deemed appropriate.

14. Besides acknowledging receipt of communications, the Bank shall not enter into discussion or correspondence with any consultant during the selection and review process, until award of the contract is notified.

**Debriefing by the Bank**

15. If, **after notification of intention of award or publication of contract award, as applicable**, a consultant wishes to ascertain the grounds on which its proposal was not selected, it should address its request to the Borrower as indicated in paragraph 2.39. If the consultant is not satisfied with the explanation given and wishes to seek a meeting with the Bank, it may address the Country Representative for the borrowing country with a copy to the Project Procurement Division of the Bank at its Washington, D.C. Headquarters, who will arrange a meeting at the appropriate level and with the relevant staff. In this discussion, only the consultant's proposal can be discussed and not the proposals of competitors.

## **Appendix 4: Policies for Procurement in Loans to the Private Sector**

### **1. Application of Policies to the Private Sector**

According to Bank policies, private sector enterprises are those in which there is no Government participation in the capital of the enterprise or those in which Government participation represents less than fifty percent (50%) of the total capital of the enterprise. In general, the Bank's procurement policies also apply to the private sector, whether the entity is a Borrower of the Bank or it is a recipient of a Bank guarantee. In particular, the Bank's policies regarding the appropriate use of loan funds and the eligibility of goods, works, and services, as well as its policies regarding economy and efficiency, apply to the private sector.

### **2. Methods of Procurement**

Private sector Borrowers shall utilize procurement procedures in accordance with established private sector or commercial practices that are acceptable to the Bank. The Bank ensures that such procedures result in competitive market prices for the goods and services and that these meet the needs of the project.

### **3. Conflict of Interest**

Contracts awarded by private sector Borrowers should be negotiated on an arm's-length basis, taking into account the financial interests of the Borrower rather than the interests of its parent firm. When a shareholder of a private sector Borrower also acts as contractor to the Borrower, it should be demonstrated to the Bank that the costs of the acquisition are approximately equivalent to budget estimates and market prices, and that the conditions of the contract are equitable and reasonable. The Bank will not finance acquisitions that exceed market prices.