

***POLICIES AND PROCEDURES FOR THE
PROCUREMENT OF CONSULTING
SERVICES***

Inter-American Development Bank

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PREFACE

This document sets forth and explains the Policies and Procedures for the Procurement of Consulting Services financed by the Inter-American Development Bank.

The application of policies and practices, characterized by equitable, and transparent procedures, is indispensable, not only for the creation of dependable and stable markets that will attract efficient contractors and suppliers, but also to promote accountability and the cost-effective use of public funds. To a large extent the quality, cost, and timely completion of a project depend on the management of procurement. In addition, from the viewpoint of the Bank as an international development agency, it is important that prospective bidders from the Bank's eligible countries have the opportunity to participate under equitable conditions in the provision of goods, works, and consulting services.

The responsibility for execution and administration of projects rests with the Borrowers. This includes the entire procurement process, from preparing Bidding Documents to awarding and managing contracts for Consulting Services. The Bank oversees the procurement process to ensure that its rules and procedures are followed. These Policies and Procedures apply to all procurement processes of consulting services regardless of the amount involved.

POLICIES AND PROCEDURES FOR THE PROCUREMENT OF CONSULTING SERVICES

I. DEFINITIONS AND PRINCIPLES OF PROCUREMENT

1. Definitions

- 1.01 **Affiliate** or **Subsidiary** are used indistinguishably to define a firm whose economic activity is controlled by another firm having a majority equity interest.
- 1.02 **Applicant** is any Consulting Firm that submits an Application for a Prequalification Process for the Procurement of Consulting Services.
- 1.03 **Application** is the set of documents submitted by an Applicant in the Prequalification stage of the process for the Procurement of Consulting Services.
- 1.04 **Bank** is the Inter-American Development Bank.
- 1.05 **Bid** is the set of documents submitted by the Bidder in the Bidding or Competitive Process.
- 1.06 **Bidder** is any Consulting Firm submitting a Bid.
- 1.07 **Bidding or Competitive Process** is the process whereby a Consulting Firm or Individual Consultant is selected to provide the Consulting Services. The Bidding or Competitive Process shall conclude with the signature of the Contract for the Procurement of Consulting Services between the Contracting Agency and the Consulting Firm or the Individual Consultant.
- 1.08 **Borrower, Beneficiary, and Executing Agency** are terms used interchangeably to identify the entity signing the Loan Contract or Technical Cooperation Agreement with the Bank for a Program or Project.
- 1.09 **Consulting Firm** is any private, public or government-owned legal entity, or any combination thereof, that formally intends to enter into an agreement or is bound by an existing agreement in the form of a Joint Venture, Consortium or Association, for-profit or not, that provides Consulting Services. Unless otherwise indicated in the Bidding Documents, in any Joint Venture, Consortium or Association (JVCA), the members shall be jointly and severally liable for the provision of the Consulting Services. Specialized institutions such as universities, foundations, nongovernmental organizations, autonomous or semi-autonomous agencies or international organizations that provide Consulting Services shall be considered Consulting Firms. Unless otherwise indicated, in these Policies the terms "Consulting Firm", "Firm", "Specialized Institution" or "Consortium" are used interchangeably.

- 1.10 **Consulting Services** are services of various kinds relating to any science, art, trade or work, such as advice, auditing, professional opinions or other skills.
- 1.11 **Contract for the Procurement of Consulting Services** is the legal instrument that contains the agreement between the Contracting Agency and the Successful Bidder for the Procurement of Consulting Services.
- 1.12 **Contracting Agency** is the entity with the legal capacity to sign the Contract for the Procurement of Consulting Services with the Consulting Firm or Individual Consultant. This entity may be the Borrower, the Beneficiary, the Executing Agency, or any other entity so appointed.
- 1.13 **Counterpart Resources** are the funds that the Borrower, Beneficiary or Executing Agency commits to contribute from its own or third party resources for the realization of a Project or Program.
- 1.14 **Days** shall be interpreted as calendar days.
- 1.15 **Evaluation** is the process whereby an evaluation committee established by the Contracting Agency examines the Applications for Prequalification, or the Bids, to determine the extent to which they comply with the requirements specified in the Prequalification and Bidding Documents. In the case of individual consultants, the qualifications are evaluated.
- 1.16 **Financing and Contribution** are the resources that the Bank agrees to make available to the Borrower or Beneficiary to assist with Project implementation. The Financing or Contribution does not include the Counterpart Resources provided by the Borrower or Beneficiary.
- 1.17 **In writing** shall be interpreted as communicated in written form and delivered against receipt.
- 1.18 **Individual Consultant or Expert** is a person who, with a specialty in a science, art, trade or work, provides Consulting Services. In these Policies, the terms "Individual Consultant" and "Individual Expert" are used interchangeably.
- 1.19 **Loan Contract and Technical Cooperation Agreement** is the legal instrument signed by the Bank and the Borrower or Beneficiary, governing the terms of the loan or grant for the Project.
- 1.20 **MIF** is the Multilateral Investment Fund.
- 1.21 **Project or Program** are terms used interchangeably to indicate the activities to be financed with resources from the Loan Contract or the Technical Cooperation Agreement.

- 1.22 **Protest** is any complaint, objection, challenge, rejection or other expression of disagreement submitted in writing by any participant or potential participant at any stage of the procurement process.
- 1.23 **Qualification** is a stage in the procurement process in which the Contracting Agency evaluates the Consulting Firms' compliance with the specified requirements. When the evaluation of qualifications is performed prior to and independent of the Bidding Process, it is called prequalification.
- 1.24 **Short List** represents the set of Consulting Firms that, having been pre-selected, have obtained the highest ranking in order of merit and shall be invited to submit Bids. The Short List shall be drawn up by the Contracting Agency and shall include all the highest ranked prequalified firms except that the number shall not be less than three (3) nor more than six (6).
- 1.25 **Singular and Plural.** When the context requires **it**, the words in singular shall be interpreted as plural and vice versa,.
- 1.26 **Successful Bidder** is the Consulting Firm whose Bid has been determined to be substantially responsive to the Bidding Documents and has been determined to be the best evaluated Bid, or the Individual Consultant whose qualifications were evaluated as the best.
- 1.27 **Threshold Amount for International Competitive Bidding** is the amount above which International Competitive Bidding shall be the method used for the procurement of Consulting Services. This threshold shall be established in the Loan Contract or the Technical Cooperation Agreement.

2. Principles of Procurement

- 2.01 In any procurement process, the Contracting Agency shall abide by the basic principles of economy, efficiency, competition, equality, transparency, due process and publicity, unless with respect to Nationality and Origin of Goods and Margin of Preference these policies otherwise indicate. For the purpose of these policies such principles shall have the meaning indicated below.

Economy

- 2.02 Under this principle, all procurement procedures shall be pursued in such a way as to save time, resources and money and to prevent delays or disruptions in the execution of the Procurement Contract. The procedures followed must ensure prompt settlement of any disputes or differences that may arise with respect to the Prequalification, selection and execution of the Procurement Contract.

Efficiency

- 2.03 Under this principle, all procurement processes must be planned and programmed to be completed in a timely manner and under the best of conditions with respect to cost and quality.

Competition

- 2.04 Under this principle, all procurement processes must encourage participation by the greatest possible number of qualified Bidders, so that the Contracting Agency may obtain the most favorable market conditions.

Equality

- 2.05 Under this principle, procurement processes must avoid preferences or discriminatory measures of any kind that might favor or affect certain participants to the detriment or benefit of others.

Transparency

- 2.06 Under this principle, all procurement processes must be conducted using well-defined and established rules so as to minimize any discretion in the procurement process. These rules must be known by all participants and civil society so that whenever necessary they may verify the compliance therewith.

Due process

- 2.07 Under this principle, all Procurement processes must provide the opportunity and procedures under which participants and those interested in participating may lodge Protests with respect to the procurement process in order to safeguard their rights and to ensure the integrity of the process.

Publicity

- 2.08 Under this principle, the general public has the right to information related to any Bank financed project regarding the procurement process, so that any interested party may participate or obtain the necessary information to monitor the procurement process.

II. PROCUREMENT WHOLLY OR PARTIALLY FINANCED BY THE BANK

In the procurement of consulting services needed for the execution of a Project financed wholly or partially with Bank resources, the following provisions must be observed.

A. COMMON PROVISIONS

3. Corrupt Practices

3.01 **Corrupt Practices.** The Bank requires that all Borrowers (including grant Beneficiaries) and the Contracting Agency, as well as, Applicants, Bidders, Contractors, Consulting Firms and Individual Consultants participating in Bank-financed projects, adhere to the highest ethical standards, both during the Prequalification and Selection Process and throughout the execution of a Contract. The definitions of actions set forth below cover the most common types of corrupt practices, but are not exhaustive. For this reason, the Bank shall also take action in the event of any similar deed or complaint involving alleged acts of corruption, even when these are not specified in the following list. The Bank shall in all cases proceed in accordance with the established procedure referred to in Article 3.06.

- (a) “Bribery” means the offering or giving of anything of value to influence the actions or decisions of third parties or the receiving or soliciting of any benefit in exchange for actions or omissions related to the performance of duties.
- (b) “Extortion” or “Coercion” means the act of obtaining something, compelling an action or influencing a decision through intimidation, threat or the use of force, where potential or actual injury may befall upon a person, his/her reputation or property.
- (c) “Fraud” means any action or omission intended to misrepresent the truth so as to induce others to act in reliance thereof, with the purpose of obtaining some unjust advantage or causing damage to other.
- (d) “Collusion” means a secret agreement between two or more parties to defraud or cause damage to a person or entity or to obtain an unlawful purpose.

3.02 **Measures to be taken by the Bank.** If, in accordance with the administrative procedures of the Bank, it is demonstrated that a government official, or anyone acting on his or her behalf, and/or a participant in a procurement process or a supplier/contractor during the execution of the Contract, carried out in connection with a Bank-financed project has committed corrupt practices, the Bank reserves the right, among other things, to:

- (a) not finance any award or Contract in connection with the respective procurement process; and/or
 - (b) declare an Individual Consultant or a Consulting Firm and/or its personnel directly involved in corrupt practices, temporarily or permanently ineligible to be awarded future Contracts under Bank-financed projects; and/or
 - (c) cancel the portion of a loan or contribution associated with such procurement process, and/or accelerate the amortization of the portion of such loan, or a reimbursement to the Bank of the portion of such contribution, when there is evidence that the representative of the Borrower, or Beneficiary of the contribution, has not taken the adequate remedial measures within a time period which the Bank considers reasonable, and in accordance with the due process guarantees of the Borrowing country's legislation.
- 3.03 **Inspection of Accounting Records and Financial Statements.** In Contracts financed with Bank resources, the Bank reserves the right to require that Prequalification and Bidding Documents include an article allowing the Bank, or a person designated by it, to inspect or perform audits of the accounting records and financial statements of the Consulting Firms or Individual Consultants pertaining to the execution of a Contract.
- 3.04 **Disclosure of Commissions.** The Prequalification and Bidding Documents, as well as the Contract, shall require that the Applicant/Bidder or the Successful Bidder disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the Prequalification Process, the Bidding Process, or execution of the Contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.
- 3.05 **No Bribery Pledge.** At the request of the Borrower, the Bank shall accept that documents related to Bank-financed procurement of Consulting Services to be provided by Consulting Firms and Individual Consultants, include articles requiring participants in the Bidding Process or the Successful Bidder to expressly pledge that they will comply with the laws prohibiting corrupt practices in the country where the contracted consulting services are to be provided. The text of said requirement shall be agreed upon with the Bank.
- 3.06 **Corruption Complaints.** The Bank has established administrative procedures for cases of allegations of specific corrupt practices within the procurement process. To that effect any complaint shall be submitted to the Bank for the appropriate investigation. In these cases, if the Bank considers that it is warranted, it may require the suspension of the corresponding procurement process.

4. Eligibility Requirements

4.01 **Nationality.** The Procurement of Consulting Services is limited to Consulting Firms and Individual Consultants that are nationals of an eligible country of the Bank. When the Procurement of Consulting Services is to be financed with resources from the MIF, contracting shall be limited to Consulting Firms and Individual Consultants that are nationals of an eligible country of the MIF.

- (a) An Individual Consultant is considered to be a national of an eligible country if he or she is either of the following:
 - i. A citizen of an eligible country.
 - ii. Has established his/her domicile in an eligible country as a “bona fide” resident and is legally entitled to work there (as other than an international civil servant).
- (b) A Consulting Firm is considered to have the nationality of an eligible country if it meets all of the following requirements:
 - i. Is legally constituted in an eligible country and operates in conformity with the provisions of the laws of that country.
 - ii. Has more than fifty percent (50%) of the firm’s capital owned by natural persons or firms from eligible countries, in accordance with the definitions above.
 - iii. Has headquarters located within the territory of an eligible country.
 - iv. Constitutes an integral part of the economy in the eligible country where it is domiciled.
 - v. Has no previous arrangement whereby any substantial part of the net profits or other tangible benefits of the firm will accrue or be paid to natural persons who do not meet the requirement of Article 4.01(a), or to legal entities that are not eligible in accordance with the nationality requirements set forth in this Article.
- (c) The criteria stipulated in item (a) shall also apply to the key personnel of the Consulting Firm or any Individual Consultant proposed as a subcontractor in the Consulting Services.
- (d) The criteria stipulated in item (b) shall also apply to each member of a Consulting Firm, if this is a Joint Venture, Consortium or Association, and to any legal entity proposed as a subcontractor of Consulting Services.

- 4.02 **Declaration of Ineligibility by the Bank.** The procurement of Consulting Services is limited to Consulting Firms and Individual Consultants that at no time in the procurement process are considered ineligible by the Bank.
- 4.03 **Country of Origin of Goods and Related Services.** The term “Country of Origin” means the country in which the material or goods have been mined, grown, harvested, produced, manufactured, or processed; or in which, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its imported components. The nationality of the firm that produces, assembles, distributes or sells the goods does not determine their origin.
- 4.04 **Eligibility of Goods and Related Services.** All goods and related services to be supplied by the Consulting Firm or Individual Consultant under the Contract to be financed by the Bank shall have as their countries of origin eligible member countries of the Bank. For purposes of these Policies, the term “goods” includes commodities, raw materials, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, installation, training, and initial maintenance.
- 4.05 **Transportation of Goods.** In the case of transportation of goods, they shall be transported in vessels, or any other form of transportation, that meet at least one of the following criteria:
- (a) The vessel’s registration or flag is from an eligible country.
 - (b) The owner of the vessel is from an eligible country.
 - (c) The firm that issues the bill of lading or manifest is from an eligible country.
- 4.06 **Incompatibilities pertaining to the Procurement of Consulting Services.** The Bank considers that there is an incompatibility when the service provider for the Procurement Contract, within six (6) months of the date of the Application for Financing, Prequalification, or Selection, falls in one of the following categories:
- (a) Individual Consultant who had or has a contractual relationship with the institution receiving the Financing or the Consulting Services;
 - (b) Consulting Firm whose partners or directors had or have a contractual relationship with the institution receiving the Financing or the Consulting Services;
 - (c) Consulting Firm whose technical personnel proposed for the execution of the Procurement Contract had or have a contractual relationship with the institution receiving the Financing or the Consulting Services;
 - (d) Consulting Firm that performed or performs external auditing work for the institution receiving the Consulting Services;

The Bank may authorize a reduction in the six (6) month period in the cases of direct contracting without competition indicated in Article 12.04.

4.07 Conflict of Interest between any of the Parties Involved in a Bidding Process.

There shall be no conflict of interest between any of the parties, whether Applicants, Bidders or Contracting Agency involved in the same procurement process, under penalty of disqualification. A Consulting Firm, Individual Consultant or the Contracting Agency will be considered to have a conflict of interest with any of the parties involved in the same process, if any of the following circumstances apply:

- (a) They have, directly or indirectly, controlling shareholders or partners in common.
- (b) They receive or have received direct or indirect subsidies from any of the individuals named in (a) above.
- (c) Their legal representatives are the same or have a common party in their executive boards or management, or when the decision-making vote of their shareholders at assemblies or meetings belongs directly or indirectly to the same natural persons or entities.
- (d) They have a relationship with each other, directly or through common third parties that puts them in a position where they have access to information about or can influence other Applicants or Bidders or the decision of the Contracting Agency regarding the Prequalification or Bidding Process.
- (e) They submit more than one Application or Bid for the corresponding Prequalification or Bidding Process. An Applicant or Bidder that submits an Application for Prequalification or Bid with a specific subcontractor, will not be allowed to submit another one exchanging roles between themselves. This rule does not apply to alternative Bids when they are allowed in the Bidding Documents.

4.08 Conflict of Interest between Related Firms. Affiliates or subsidiaries of a works contractor, a supplier of goods, or a single economic or financial group shall be considered to be in a situation of conflict of interest and may not submit Applications or Bids unless they make a written commitment to both of the following:

- (a) To limit their functions to Consulting Services.
- (b) Not to participate, either directly or through their associates, in any undertaking of the same group involving the construction of works, supply of goods, or conduct of financial activities relating to the Consulting Services.

4.09 **Conflict of Interest under other Circumstances.** A Consulting Firm or individual consultant may not be hired if:

- (a) The Individual Consultant or the Consulting Firm's technical personnel have taken part directly in any previous stage related to the objectives of the Consulting Services, except as provided in Article 12.04(c).
- (b) The tasks to be carried out might be in conflict with current or previous obligations.
- (c) Another circumstance exists that might put them in a position where they cannot carry out the tasks in the best interest of the borrower.

The Bank may consider the specific circumstances of each case, in order to determine whether there is a conflict of interest that would warrant disqualifying the Consulting Firm or the Individual Consultant.

4.10 **Government-owned Entities.** Government-owned Entities and International Organizations may participate in the Bidding Process for Consulting Services only if they can establish that they are established legal entities, financially autonomous, and operate under the principles of the applicable Commercial Law of their relevant jurisdiction.

4.11 **Duration of Eligibility.** Consulting Firms and Individual Consultants shall maintain their eligibility throughout the Bidding Process. At the request of the Contracting Agency, they shall provide evidence to the Contracting Agency and to the Bank that they have complied with this requirement.

4.12 **Prohibition to introduce Restrictions.** In applying the procedures established in these Policies, the Contracting Agency may not introduce provisions or conditions that could obstruct or impede participation by Consulting Firms or Individual Consultants that meet the eligibility requirements established herein.

5. **Securities, Prior Procurement, Prices, Currencies and Language**

5.01 **Securities.** The Bank accepts that, in the procurement of Consulting Services, one of the following securities may be required:

- (a) Advance payment security.
- (b) Performance security, which consists of withholding the final payment as specified in Article 5.09 of these Policies.

The Bank does not accept the requirement of a Bid security. Instead, the Contracting Agency may impose penalties on Bidders who fail to comply with their obligation not to withdraw their Bid during its period of validity. The Bank also reserves the right to declare temporarily or permanently ineligible any Consulting Firm that fails to comply with this obligation.

- 5.02 **Procurement Prior to Approval of the Loan Project.** Provided that the procurement procedures used are substantially consistent with these Policies, the Bank may, on an exceptional basis, provide retroactive financing, to be charged to the Bank's Loan or Grant, or recognized as Counterpart Resources, for any procurement carried out by the Borrower prior to approval of the Loan Project.. However, if the prospective Borrower decides to carry out procurement prior to the effective date of the Loan Contract, this would be done at its own risk, to the extent that if in the end the corresponding Project is not approved, the Bank shall not finance said procurement.
- 5.03 **Bid Prices.** The prices quoted in the Price Proposal shall be submitted disaggregating price from taxes such as customs duties, sales taxes and other levies, paid or payable, and applicable in the country of the Contracting Agency.
- 5.04 **Exchange Risk.** When payment to a Consulting Firm or an Individual Consultant requires currency conversion, the exchange risk shall be borne by the Contracting Agency.
- 5.05 **Currencies.** The Bidding Documents shall indicate the currencies that may be used for submitting and comparing Bids. The Bank shall accept quotes in currencies that are widely used in international trade, provided they are those of an eligible country.
- 5.06 **Bid Currencies.** These are the currencies selected by the Bidder in its Bid.
- 5.07 **Currency for Comparison of Bids.** For purposes of comparing Bids, the Contracting Agency shall convert into a single currency all prices quoted in other currencies, using the selling exchange rate. For these purposes, the Bidding Documents shall indicate the source and date of the exchange rate to be used. The date of the exchange rate must precede the deadline for submission of Bids by at least ten (10) days. If the Bidding Documents so indicate, the Contracting Agency may require that the Bidder, in addition to its quoted price in the currencies it selected, express its quote in the currency specified by the Contracting Agency for comparison of Bids using for that purpose the above mentioned exchange rate. At the time of the Public Opening of the Bids, the Contracting Agency shall record the Bid price in the currency selected by the Bidder, and, if this had been requested, the Bid price expressed in the currency for comparison of Bids.
- 5.08 **Payment.** In all cases, the currency in which payment is to be made shall be the one selected by the Bidder in the Bid.
- 5.09 **Final Payment and Final Report.** The final payment made under the Consulting Services Procurement Contract shall be contingent on to the acceptance of the final report, by the Contracting Agency and the Bank, where this is a requirement. Such payment shall constitute at least ten percent (10%) of the total amount of the agreed fees.

- 5.10 **Recommendations by Consultants.** Acceptance of the final report by the Contracting Agency shall be understood as referring only to the completion of the Contract, and does not bind either the Contracting Agency or the Bank to share in the opinions or to implement the recommendations set forth in said report.
- 5.11 **Language.** The Prequalification and Bidding Documents and Procurement Contracts shall be drafted in one of the Bank's official languages. Applications, Bids, documents and any correspondence exchanged between the Applicant or Bidder and the Contracting Agency, in relation to the procurement process, shall be drafted in the language specified in the Prequalification Documents or Bidding Documents. Supporting documents and printed literature that form part of the Application and/or Bid may be in another language provided they are accompanied by an accurate translation of the passages the Applicant or Bidder considers relevant, to the language specified in the Prequalification or Bidding Documents. For purposes of interpretation such translation shall govern.

6. Publicity

- 6.01 **General Requirements.** One of the most important elements of public bidding is that it allows the participation of a large number of eligible Bidders and makes civil society aware of the procurement processes carried out by public entities. The Bank's requirements for publicity in international competitive biddings are indicated below.
- 6.02 **General Procurement Notice.** Any procurement of Goods, Works and Consulting Services shall require posting a General Procurement Notice (GPN) on the internet website of the United Nations publication "Development Business" and for information on the Inter-American Development Bank's Internet website. The purpose of this general notice is to provide advance notice to interested parties with respect to potential opportunities for procurement of Goods, Works and Consulting Services to be provided by Consulting Firms or Individual Consultants, that might be required as part of the Project, as well as tentative dates for said procurement.
- 6.03 **Publication of the General Procurement Notice.** The Bank is responsible for ensuring the publication of the GPN, on behalf of the Contracting Agency. The GPN shall be published on the Internet website of "Development Business," as well as on the Bank's Internet website for information. The GPN shall be published in advance of the first specific procurement notice for Prequalification or Bidding for the corresponding project. Even if the Loan Contract has not been approved, at the Bank's discretion, the Bank may authorize its publication. The notice shall include all of the following information:
- (a) The name of the country.
 - (b) The reference number of the Bank's Loan Contract or the Technical Cooperation Agreement if it has been signed already.

- (c) The name of the Project and its objective, the amount of the Loan Contract, the Project cost broken down by source of Financing.
- (d) A brief description of the Consulting Services to be procured for the Project, with a tentative indication of the quarter or semester period of each year in which they shall be carried out.
- (e) A brief description of the Bank's publicity policy for specific Bidding Processes, indicating the type of publication that must be used and other sources of information; and
- (f) The Borrower's name, contact person, mailing address, telephone and fax numbers, and e-mail address where additional information may be obtained.

6.04 **Specific Procurement Notice.** Each International Competitive Bidding for the procurement of Consulting Services to be provided by Consulting Firms, requires a Prequalification stage, which begins with publication of the Specific Procurement Notice (SPN), both nationally and internationally.

6.05 **Publication of the Specific Procurement Notices.** The Contracting Agency is responsible for the publication of SPNs once it has obtained the Bank's no objection. For that purpose, it shall submit to the Bank copies of these notices, indicating the dates and the name of the national publication in which the notice will appear. Internationally, the notice shall be published on the Internet website of "Development Business," as well as on the Bank's Internet website for information. The national notice shall be published only once in a daily newspaper of wide national circulation, or posted on the country's sole official website for publishing public sector procurement notices. These notices shall specify all of the following:

- (a) The name of the country.
- (b) The reference number of the Bank's Loan Contract or the Technical Cooperation Agreement if it has been signed already.
- (c) The intention to procure Consulting Services, with a brief description of the services required and the budgeted amount.
- (d) The address where the Prequalification Documents may be obtained and the date when they will be available, which may not be prior to the date the notices are published.
- (e) The address, date and closing time for Consulting Firms to submit their Applications.
- (f) The address, date and time when the envelopes with the Applications, received by the Contracting Agency, will be publicly opened.

- (g) The Contracting Agency's name, contact person, mailing address, telephone and fax numbers, and e-mail address where additional information may be obtained.

7. Confidentiality

- 7.01 **Confidentiality Information.** The Contracting Agency shall not disclose any information relating to the examination, Evaluation, or comparison of Applications and Technical or Price Proposals, or the recommendations for Prequalification, selection and award of the Contract, to participants in a Prequalification or Bidding Process, or to any other person not officially involved in the Evaluation. This information shall be made public once the notification of Prequalification, selection or Award of the Contract has been completed and notified to all participants in the process have been notified.
- 7.02 **Misuse of Confidential Information.** Any attempt on the part of a participant to seek or use confidential information may be cause for disqualification.

8. Deviations, Reservations, Omissions and Errors

- 8.01 The following definitions apply to all processes for the Prequalification and Selection of Consulting Firms or Individual Consultants:
 - (a) A **deviation** is a departure from the specified requirements.
 - (b) A **reservation** establishes limiting conditions or non-acceptance of all specified requirements.
 - (c) An **omission** is the failure to include some or all of the required information or documentation.
 - (d) An **error** is a mistake in the presentation of arithmetic information or its expression in words.
- 8.02 **Substantial Responsiveness.** The determination of whether or not an Application or Bid is responsive to the requirements of the Contracting Agency shall be based exclusively on the contents of the Application or the Bid itself.
 - (a) An Application or Bid is substantially responsive to the requirements of the Prequalification or Bidding Documents if it conforms to all of the terms, conditions and specifications of those requirements, without non-reparable deviations, reservations, omissions or errors. A non-reparable deviation, reservation, omission or error is one that, if accepted by the Contracting Agency, would do one of the following:
 - i. Affect in any substantial manner the scope, quality, or performance of the Consulting Services; or

- ii. Limit in any substantial manner, inconsistent with the requirements of the Bidding Documents, the Contracting Agency's rights, or the obligations of the Consulting Firm or Individual Consultants under the Contract; or
 - iii. Significantly affect the competitive position of other Consulting Firms or Individual Consultants who submitted substantially responsive Applications or Bids.
- (b) If an Application or Bid is not substantially responsive to the requirements of the corresponding Prequalification or Bidding Documents, it shall be rejected by the Contracting Agency and may not subsequently be made responsive by correction of the non-reparable deviations, reservations, omissions or errors that originally rendered it non-responsive.

8.03 Correction of Reparable Deviations, Reservations, Omissions and Errors. Every Prequalification or Bidding Process must allow for the possibility of correcting deviations, reservations, omissions and errors that are considered reparable as defined in Articles 8.01 and 8.02, provided the Application or Bid is substantially responsive to requirements of the Prequalification or Bidding Documents. In these cases, the Contracting Agency, may:

- (a) Waive any deviation, reservation or omission in the Application or Bid that does not constitute a material deviation;
- (b) Request that the Applicant or Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify reparable omissions. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Applicant or Bidder to provide the information requested within the time limit indicated by the Contracting Agency may result in the rejection of its Application or Bid;
- (c) Correct arithmetical errors on the following basis:
 - i. If there is a discrepancy between the unit price and the total price obtained by multiplying the unit price and the corresponding quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Contracting Agency the decimal point in the unit price has been obviously misplaced, in which case the total price as quoted shall govern and the unit price shall be corrected.
 - ii. If there is an error in the total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.
 - iii. If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetical error in which case the amount in figures shall prevail subject to (i) and (ii) above.

- iv. if the Consulting Firm does not accept the correction of errors, its Application or Bid shall be rejected.

9. Due Process

9.01 **Protests.** Procurement Processes governed by these Policies and Procedures must allow for the submission of Protests, deemed necessary, to safeguard the principle of Due Process. The Contracting Agency may not impose conditions that would impede, restrict or increase the cost of lodging Protests through the use of bonds, fees or other similar charges.

9.02 **Handling of Protests.** Applicants, Bidders and the Contracting Agency shall follow the procedures indicated below:

- (a) Protests may be lodged at any stage of the process. Any claim, objection, challenge, rejection or any other expression of disagreement shall be submitted by the protesting party in writing to the Contracting Agency.
- (b) If a Protest is submitted, the Contracting Agency shall suspend the process immediately and shall notify the Bank and other participants to this effect.
- (c) The Contracting Agency shall respond to the Protest expeditiously and must justify its decision.
- (d) This response shall be notified to the protesting party, indicating that if the party does not accept the decision, it will have seven (7) days after receipt of the notification to confirm its Protest.
- (e) If the protesting party does not accept the decision of the Contracting Agency, the party may confirm its Protest. In this case, the Contracting Agency shall notify the Bank which shall then resolve the matter, and its decision is not subject to appeal. For these purposes, the Contracting Agency shall submit to the Bank all the documentation and background information necessary for making a decision.
- (f) Once the Bank resolves the Protest:
 - i. The Bank shall notify its decision to the Contracting Agency of the decision;
 - ii. The Contracting Agency, without informing the parties of the Bank's decision, shall complete the Evaluation process;
 - iii. The Contracting Agency shall notify the protesting party and all participants about the result of the Prequalification Process or Selection Process, and the Bank's decision.

10. Ex-Post Supervision

10.01 The Bank may at its sole discretion use these procedures for the procurement of Consulting Services in amounts below the Threshold for International Competitive Bidding, and regardless of the method of selection so long as the Bidding Process has been a competitive process. It consists of supervision, either totally or by random sampling, subsequent to the contracting of the Consulting Services, except as stipulated in item (b) of this Article. The Contracting Agency shall adhere to the following:

- (a) For the procurement of Consulting Services, it must keep proper files on the respective background information of the Bidding and Contracting Processes and, in particular, all of the following:
 - i. A document explaining the procedure used in the Competitive Bidding Process, including the Prequalification and Bidding Documents, if any.
 - ii. The Prequalification Evaluation Report and the names of the prequalified Consulting Firms or Individual Consultant.
 - iii. The Bid Evaluation Report with the recommendation for Selection and Contract Award of the Consulting Services Procurement Contract to the selected Consulting Firm or Individual Consultant.
 - iv. Proof of the notification of the result of the Bidding Process to all participants.
 - v. The Consulting Services Contract, duly signed.
 - vi. Any other information that the Bank or the Contracting Agency may consider necessary or helpful for the Bank's review.
- (b) In the case of procurement of multiple and similar Consulting Services, before the first Prequalification or Bidding Process begins, the Contracting Agency shall submit for the Bank's no objection the procedures that it intends to use to procure the services of Consulting Firms or Individual Consultants, including, where relevant, the drafts of the Prequalification and Bidding Documents, in addition to its obligation to fulfill the conditions of item (a) of this Article.
- (c) If the Borrower has not followed the Bank's Policies and Procedures for the Procurement of Consulting Services, the Bank reserves the right pursuant to ex post supervision to:
 - i. Not finance or cancel the financing of those Contracts where the procedures used were not consistent with these Policies.

- ii. Require the Borrower to reimburse any funds disbursed for such Contracts, including interest and commissions.
- iii. Refuse to recognize as Counterpart Resources, any funds that were used for said Contracts.
- iv. Require ex ante or prior supervision by the Bank, for any future Procurement.

11. Commitment and Responsibility of the Bank

11.01 Commitment and Responsibility. The Bank:

- (a) Makes no commitment to finance, wholly or in part, any Program or Project that, directly or indirectly, may result from Consulting Services financed by the Bank and provided by Consulting Firms or Individual Consultants.
- (b) May, at the Contracting Agency's request, assist in the process for the procurement of Consulting Services, but the negotiation and signing of such Contracts, based on terms and conditions acceptable to the Bank, are the exclusive domain of the Contracting Agency, for which the Bank accepts no responsibility.

11.02 Consequences of Noncompliance. The Bank reserves the right not to finance any Procurement of Consulting Services, funded by a Loan Contract or Technical Cooperation, or recognize any expenses made with Counterpart Resources if, in its judgment, the procurement process failed to adhere to the provisions of these Policies and Procedures.

B. POLICIES AND PROCEDURES FOR THE PROCUREMENT OF CONSULTING SERVICES TO BE PROVIDED BY CONSULTING FIRMS

12. General Aspects

12.01 Selection Methods. The procurement of Consulting Services to be provided by Consulting Firms shall be carried out through International Competitive Bidding or National Competitive Bidding. Under special circumstances the Bank may grant a waiver to Public Competitive Bidding.

12.02 International Competitive Bidding. When the budget allocated to the procurement of Consulting Services is at or above the Threshold Amount, International Competitive Bidding (ICB) shall be required. International Competitive Bidding includes a formal process of Open Prequalification and compliance with the Publicity requirements indicated in Article 6.

12.03 National Competitive Bidding. When the budget allocated to the procurement of Consulting Services falls below the Threshold Amount, National Competitive Bidding may be used. This method does not require a formal process of Open

Prequalification. The Prequalification may be done by Invitation in accordance with Article 13.04(b); and participation of international Consulting Firms from an eligible country may not be restricted. In this case, publicity may be limited to the national level.

12.04 **Waivers to Competitive Bidding.** Under certain circumstances, the Bank may grant a waiver to select a Consulting Firm without open competition. The Bank shall not accept lower cost or time saving as a justification for hiring Consulting Firms without open competition. This may be permitted under any of the following circumstances:

(a) **Technical Advantage.** It may be appropriate to hire a Consulting Firm to render technical Consulting Services if it has specialized knowledge not otherwise available to other Consulting Firms. To justify its "technical advantage", an analysis shall be made of its adequacy and experience as compared with those of other Consulting Firms. To measure and justify this "comparative technical advantage", all the following requirements shall be met:

- i. The Consulting Firm possesses known ability and experience in the area of the professional services to be contracted, not easily found in other Consulting Firms.
- ii. The personnel to be assigned must have specific experience and qualifications, not easily available at the required level or in other Consulting Firms; or the Consulting Firm has access to specialized consultants, not usually available to other entities.
- iii. The Consulting Firm is able to effectively coordinate several individual specialists and prepare specialized consolidated reports that may also require simultaneous coordination in several countries, if required.
- iv. The performance Evaluation for similar work done for the Bank or the Borrower has been at least satisfactory or equivalent.

(b) **Institutional advantage.** There are some Consulting Firms that can provide the Borrower, certain advantages that will facilitate the execution and administration of an operation. In order to measure and justify an "institutional advantage", the Consulting Firm shall meet all of the following criteria:

- i. Have a good, on-going working relationship with the Borrower.
- ii. Be able to effectively coordinate several individual specialists and prepare specialized consolidated reports that may also require simultaneous coordination in several countries, if required.
- iii. Provide continuity of support beyond project execution, when the Consulting Services performed require enhancement and maintenance.

- iv. Have the ability to assist Executing Agencies in the administration of, and compliance with, clauses under Loan Contracts or Technical Cooperation Agreements.
 - v. Have the ability to facilitate project implementation and disbursement of funds.
 - vi. Have access to an adequate roster of qualified consultants, as well as an effective and efficient hiring mechanism.
 - vii. Offer an efficient management support system to ensure quality control during execution of the Consulting Services; and
 - viii. The performance Evaluation for similar work done for the Bank or the Borrower has been at least satisfactory or equivalent.
- (c) **Continuation of Services.** The continuation of the services must be justified in writing on the basis of a clear technical requirement. The following are the conditions that may justify such a waiver:
- i. The Consulting Firm or party of the Joint Venture, Consortium or Association has completed a cycle or part of a stage of the project cycle and must be under consideration for the execution of other services within the same stage or the following stage of the project. It is permitted that a Consulting Firm or the party of the Joint Venture, Consortium or Association responsible for the basic studies, prefeasibility or feasibility studies, or final designs may continue to render services in connection with the activities of the following stages of the project cycle.
 - ii. The same Consulting Firm or party of the Joint Venture, Consortium or Association has completed, or shall be rendering, satisfactory services. The continuation of services shall not be accepted from Consulting Firms or party of the Joint Venture, Consortium or Association that have received a performance evaluation lower than satisfactory under the Borrower's performance evaluation systems or any other equivalent.
 - iii. The unit with technical responsibility for the activity to be carried out must agree with the justification presented by the Borrower.
 - iv. The continuation of the services must be justified in writing on the basis of a clear **technical requirement**, and not based on the fact that it would simply facilitate the execution of the services, or based on saving time or costs.

12.05 **Bid Opening.** The opening of envelopes, whether in a Prequalification or a Bidding Process, shall take place in public, at the address and time established in the Prequalification or Bidding Documents, and in the presence of representatives of any Applicant or Bidder wishing to attend. The time for the opening shall be as close as possible to the date and time limit specified for

submitting Applications or Bids. The envelopes shall be opened one at a time, and the name of the Applicant or Bidder shall be read aloud, together with the required information according to the Prequalification or Bidding Documents, as well as any other matter that the Contracting Agency considers relevant. No Application or Bid shall be rejected at the time of Opening of Bids, except for those Applications or Bids submitted late. The Contracting Agency shall prepare a written record of the Opening which shall include at least the following information:

- (a) **Opening of the Prequalification Application or of the Technical Proposal.** The name of the Applicant or Bidder; the information required according to the Prequalification or Bidding Documents; and any other matter that the Contracting Agency considers relevant.
- (b) **Opening of the Price Proposals.** The name of the Bidder; the price of the Bid, by lots, if applicable; any discounts, alternative Bids, as well as the information required according to the Bidding Documents; and any other matter that the Contracting Agency may consider relevant.

The Contracting Agency shall request the representatives of the Applicants or Bidders present to sign the record of the Opening. The omission of an Applicant or Bidder's signature on the record shall not invalidate the content and effect of the record. A copy of the record of the opening shall be distributed to all Applicants or Bidders, and to the Bank.

12.06 **Evaluation Factors for Prequalification and Bidding.** In evaluating Applications or Bids, the Contracting Agency shall use all factors, methods and criteria indicated in the Prequalification or Bidding Documents. No other factor, methodology or criteria that had not been specified in the corresponding Prequalification or Bidding Documents shall be used. Determination of an Applicant's or Bidder's compliance with the criteria established in the Prequalification Documents or the Bidding Documents shall be based solely on information directly related to the Applicant or Bidder. If to establish compliance with such criteria, the Applicant or Bidder submits information pertaining to other legal entities, such as subsidiaries, holding companies, or others, the Applicant or Bidder shall be disqualified.

12.07 **Clarifications of Prequalification and Bidding Documents.** The Consulting Firm may request the Contracting Agency, in writing, but not later than fourteen (14) days prior to the date specified as the deadline for submission of Applications or Bids, to provide clarifications on the Prequalification or Bidding Documents. The Contracting Agency shall respond, in writing, acknowledging the request and resolving any queries or concerns made known by the bidders within a reasonable period of time, prior to the deadline established for submission of Applications or Bids. In all cases, the Contracting Agency shall send a copy of its response to the other participating Consulting Firms, including a description of the queries submitted, but without identifying their source. The Bank shall issue

its no objection before the Contracting Agency issues any clarification to Prequalification or Bidding Documents.

- 12.08 **Extension of the Period of Validity of Bids.** The Contracting Agency shall evaluate Bids and shall award the Contract within the period indicated for the Validity of Bids. The extension of this period, if justified due to exceptional circumstances, shall be requested in writing from all Bidders, and prior to the expiration of the original period. At the same time the Bank shall also be notified. Such extension shall be for the minimum period of time required to complete the Evaluation of the Bids and to Award the Contract. If, due to exceptional circumstances, it should be necessary to provide for more than one extension, the extension request to the Bidders shall be accompanied by a price adjustment formula that shall be used to reflect changes in costs caused by said extension. Bidders have the right to refuse to extend the Validity period of their Bids.
- 12.09 **Rejection of all Bids.** With the Bank's prior no objection, the Contracting Agency may reject all Bids if it deems that there has been insufficient competition, or that the proposed prices are not market prices, or that they exceed the official budget by a significant amount, or due to any corrupt practice. If all Bids exceed the official budget, the Contracting Agency may give all Bidders on the Short List sufficient time to submit new Bids, after the Contracting Agency has revised and adjusted the Bidding Documents, as necessary with the Bank's prior no objection. The Contracting Agency shall duly justify any decision to declare a Bidding Process null and void with the Bank's prior no objection.

13. The Prequalification Process

- 13.01 **Prerequisites.** Before initiating the Prequalification Process, except in cases of ex post review, the Contracting Agency shall submit all the following for the Bank's no objection:
- (a) Evidence that the Evaluation Committee has been formed.
 - (b) The Prequalification Method to be used.
 - (c) The specific Procurement Notice, when applicable.
 - (d) The Selection Method to be used.
 - (e) The Prequalification Documents.
 - (f) Any other Documents that the Bank deems relevant.
- 13.02 **The Evaluation Committee.** The Contracting Agency shall advise the Bank of the date when the Committee was formed and the names and positions of its

members. The Evaluation Committee shall have the following functions, among others:

- (a) To review and approve the Prequalification.
- (b) To carry out the Prequalification Process.
- (c) To make recommendations on the composition of the Short List.

13.03 **Deadlines for Submitting Prequalification Applications.** The Contracting Agency shall allow Applicants sufficient time to submit their Prequalification Applications, which in no case may be less than thirty (30) days from the date the Prequalification Documents are made available to potential participants.

13.04 **Prequalification Methods.** The Prequalification methods shall be one of the following:

(a) **Open Prequalification.** This method shall be used whenever International Competitive Bidding is required, or whenever deemed necessary under the Threshold Amount. It requires the publication of Specific Procurement Notices, and an independent process to determine the Short List of firms, prior to the Bidding Process.

(b) **Prequalification by Invitation.** This method permits the compilation of the Short List of Consulting Firms, which may be no fewer than three (3) or more than six (6), without an Open Prequalification Process. It is to be used when the budget for the Consulting Services is less than the Threshold Amount and no International Competitive Bidding is to be used or, with the prior no objection of the Bank, when the budget of the Consulting Services is at or above the Threshold Amount, but there is only a limited number of specialized Consulting Firms in the market that can provide the required Consulting Services. Compilation of the Short List must take into account that:

- i. It has a reasonable geographic representation.
- ii. It includes Consulting Firms that have expressed interest directly to the Contracting Agency, and that have the appropriate qualifications.
- iii. It includes Consulting Firms outstanding in the particular field, based on information available to the Contracting Agency.

13.05 **Indication of the Selection Method.** The Contracting Agency shall notify the Bank of the Selection method to be used from among those listed in Article 14.03 of these Policies.

13.06 **Prequalification Documents.** The Prequalification Documents include:

- (a) Instructions to Applicants.
- (b) Application Data Sheet.
- (c) Evaluation Criteria.
- (d) Prequalification Forms.
- (e) List of Eligible Countries.
- (f) Schedule of the Required Consulting Services.

13.07 **Instructions to Applicants and Prequalification Application Data**

- (a) The Instructions to Applicants must contain the general information that is common to all Prequalification procedures, such as the purpose of the Prequalification, the eligibility of Applicants, the preparation and submission of Applications for Prequalification, instructions with respect to the Opening of Applications, Evaluation and comparison of Applications, and the methodology for determining the order of merit for selection of the Short List.
- (b) The application data sheet shall include specific information and instructions for the proposed Prequalification Process.

13.08 **Evaluation Criteria**

- (a) The Contracting Agency shall indicate the factors, criteria and the methodology to be used for the Evaluation. All of the following should be included among the factors to be considered:
 - i. Eligibility.
 - ii. Financial situation.
 - iii. Experience.
 - iv. History of contract nonperformance.
 - v. On an optional basis, the use of local Consulting Firms.
- (b) The Evaluation shall take into account the following:
 - i. The factors of eligibility, financial situation, general experience and history of contract nonperformance shall be evaluated based on a pass/fail system.

- ii. The factors of specific experience and use of local consulting firms, if applicable, shall be weighted by assigning a relative weight to each factor. For the specific experience factor, there shall be a minimum score that, if not obtained, shall be grounds for disqualification of the Consulting Firm's Application. For this factor there shall also be a maximum level above which the Consulting Firm shall receive top marks for this criterion. The score that will result for a Consulting Firm between these two limits, shall be established using a proportional system or other appropriate system indicated in the Prequalification Documents. The factor for use of local Consulting Firms shall also be weighted, but since its application is not mandatory there should not be a minimum score, and its maximum shall not exceed ten percent (10 %) of the total points allowed.

13.09 **Prequalification Forms.** The Prequalification Documents shall indicate the forms that the Consulting Firm shall include with its Application for Prequalification, such as those related to the Evaluation factors and evidence of previous experience.

13.10 **List of Eligible Countries.** The Contracting Agency shall include, as part of the Prequalification Documents, the list of Bank or the MIF eligible countries, according to the source of Financing.

13.11 **Schedule of Required Consulting Services.** This schedule shall include delivery and performance schedule; terms of reference; and any available drawings, studies and background information. This prequalification phase may include a preliminary version of the schedule of required Consulting Services, provided it is sufficiently complete for a Consulting Firm to determine its interest in participating. All of the following information shall be included in the documents:

- (a) The delivery and performance schedule, indicating the reports that must be prepared, as well as the dates for delivering those reports and for completing the Consulting Firm's various responsibilities under the Contract.
- (b) The terms of reference describing the scope of the Consulting Services Procurement Contract, the objectives and extent of the work to be contracted, as well as, the budget. The definition of the responsibilities of the Contracting Agency and other consultants, and any other information that may facilitate preparation of Bids shall also be included.
- (c) The drawings, studies and background information necessary for the Consulting Firm to complete its work in sufficient detail and thereby ensure proper execution.

13.12 **Beginning of the Prequalification Process.** The Prequalification Process shall begin with publicity, in the case of the Open Prequalification method indicated in Article 13.04(a), or with direct invitations, in the case of Prequalification by

Invitation pursuant to Article 13.04(b). When publicity is involved, the requirements indicated in Articles 6, shall be observed.

13.13 Opening and Evaluation of Prequalification Applications and Establishment of the Short List

- (a) When the Open Prequalification method is used:
 - i. The public opening of the Bids shall be carried out as indicated in Article 12.06. Once the Applications have been opened, the Contracting Agency will: (a) evaluate the Applications for Prequalification received, in accordance with the requirements in the Prequalification Documents; (b) establish an order of merit of the Consulting Firms that have complied with those requirements; and (c) select those Applications that have received the highest Evaluation, from which it shall compile the Short List which may not include less than three (3) or more than six (6) Consulting Firms.
 - ii. The Contracting Agency shall submit the results of the Prequalification for the Bank's no objection, together with the complete names of all participants, identifying those that were prequalified, the complete names of the Consulting Firms included on the Short List, and a copy of the Prequalification Evaluation report.
- (b) When the Prequalification –by Invitation method is used pursuant to Article 13.04(b) the Contracting Agency shall invite those Consulting Firms it considers qualified for inclusion on the Short List. The Contracting Agency shall obtain the Bank's no objection in cases of ex-ante review before notifying the Consulting Firms that were included on the Short List and inviting them to submit their Bids.

13.14 Prequalification Validity Period. The validity of the Prequalification decision will not exceed one (1) year counted from the date set as the deadline for submitting Applications. In special circumstances, the Bank may issue its no objection to a request by the Contracting Agency to reduce or extend the period indicated above. The decision to preselect a Consulting Firm shall not be modified, except when said prequalification was based on incorrect information, or when circumstances arise subsequent to the date of Prequalification that would justify such modification, contingent on the Bank's no objection.

14. Bidding Process

14.01 Prerequisites. In all cases of ex ante review, before initiating the Bidding Process, the Contracting Agency shall present all the following documentation for the Bank's no objection:

- (a) Evidence that the Evaluation Committee has been formed.

- (b) The Selection method to be used.
- (c) The Letter of Invitation.
- (d) The Bidding Documents.
- (e) Any other documents that the Bank deems relevant .

14.02 **Evaluation Committee.** The Contracting Agency shall advise the Bank of the date when the Committee was formed and the names and positions of its members. The Evaluation Committee shall have the following functions, among others:

- (a) To examine and approve the Bidding Documents.
- (b) To conduct the Bidding Process.
- (c) To make recommendations on Contract Award.

14.03 **Methods of Selection.** The Contracting Agency shall select the appropriate method for evaluating Bids from among those indicated below. The method to be applied shall be indicated in the Prequalification and Bidding Documents.

(a) **Quality Based Selection (QBS)**

- i. Technical merit alone shall be used to determine the Consulting Firm that has submitted the best Technical Proposal. Price is not a factor in the Evaluation. The Consulting Firm with the highest-ranked Technical Proposal shall be invited to negotiate a Contract.
- ii. The Evaluation method described in Article 14.19 shall be used. The Contracting Agency may, with the Bank's no objection, reject the highest ranked Bid if the price is significantly higher than the official budget, or higher by an amount that justifies such decision. In this case, the next highest ranked Consulting Firm shall be considered, and so on successively, in accordance with these provisions.
- iii. This method shall be used in cases where complex or highly specialized Consulting Services are required, or when the Consulting Services may be performed in substantially different ways, so that Bids cannot be easily compared.

(b) **Quality and Cost Based Selection (QCBS)**

- i. Price shall be used in addition to technical merit as an evaluation factor. When determining the respective weights of price and technical merit, the options shall be: eighty percent (80 %) for technical merit and twenty percent (20 %) for price; or, alternatively, seventy percent (70 %) for

technical merit and thirty percent (30 %) for price. The weights to be used in the evaluation process shall be specified in the Prequalification Documents and in the Bidding Documents.

- ii. The Consulting Service Contract shall be awarded to the Consulting Firm with the best evaluated Bid on the basis of the weighted factors of technical merit and price, and will not be subject to negotiation, except for non-material adjustments to the Contract.
- iii. After consulting with the Bank, the Contracting Agency may reject the best evaluated Bid if the price is significantly higher than the official budget. In this case, the next highest-ranked Consulting Firm shall be considered, and so on successively, taking into consideration the provisions contained herein. The Evaluation procedure indicated in Article 14.20 shall apply.
- iv. This method shall be used for less complex Consulting Services, or in cases where the nature of the required Consulting Services makes it likely that the Bids submitted would be similar in quality.

(c) Least Cost Based Selection (LCBS)

- i. Price shall be the determining factor in awarding the Consulting Service Contract from among all Technical Proposals that obtained the minimum score specified in the Bidding Documents.
- ii. The Consulting Service Contract shall be awarded to the Consulting Firm whose Price Proposal is the lowest evaluated, making that Bid the best evaluated Bid. Bids shall not be subject to negotiation, except for non-material adjustments to the Contract.
- iii. The Evaluation procedure indicated in Article 14.21 shall apply. With the Bank's no-objection, the Contracting Agency may reject all the Bids if the lowest evaluated Price Proposal is significantly higher than the official budget.
- iv. This method shall be used for Consulting Services of a standard or routine nature, and for which there are well established practices and standards.

(d) Fixed Budget Based Selection (FBBS)

- i. Price shall be used as the limiting factor in the Evaluation, and the Consulting Service Contract shall be awarded to the Bidder submitting the highest ranked Technical Proposal, provided the Price Proposal does not exceed the budget established in the Bidding Documents. If this is not the case, the next highest ranked Consulting Firm shall be considered, and so on successively, in accordance with these provisions.
- ii. The Consulting Services Contract shall not be subject to negotiation, except for non-material adjustments.
- iii. The Evaluation procedure indicated in Article 14.22 shall be used.
- iv. This method shall be used for simple, clearly defined assignments, with budgetary restrictions.

14.04 **Invitation to Submit Bids.** The Contracting Agency shall forward the Letter of Invitation and the Bidding Documents to the Short-Listed Consulting Firms.

14.05 **Letter of Invitation.** The Letter of Invitation shall be used to invite the Short Listed firms to submit Bids, with the respective Technical Proposal and Price Proposals in separate and sealed envelopes. The Letter of Invitation shall clearly indicate the intention of the Contracting Agency to sign a Consulting Service Contract, the source of Financing, a clear and complete identification of the Contracting Agency, as well as, the address, date and time set as the deadline for submitting Bids. The Contracting Agency shall allow Bidders sufficient time to prepare their Bids, which shall not be less than thirty (30) days from the date indicated in the Letter of Invitation to begin the period to prepare Bids, or from the date the Letter of Invitation is received, whichever is later.

14.06 **Bidding Documents.** The Bidding Documents shall include:

- (a) Instructions to Bidders.
- (b) Bid Data Sheet.
- (c) Evaluation Criteria.
- (d) Bidding Forms.
- (e) List of Eligible Countries.
- (f) Schedule of required Consulting Services.
- (g) General Contract Conditions.

(h) Special Contract Conditions.

(i) Contract Forms.

14.07 **Instructions to Bidders and Selection Method.** The Instructions to Bidders shall contain the general information that is common to all Bidding procedures, such as the object of the Bid, the eligibility of Applicants and Bidders, the preparation and submission of Bids, and instructions with respect to opening, Evaluation and comparison of Bids. They shall also include the selection method and proposed procedure to be used for determining the best evaluated Bid when price is a criterion for Evaluation. The bid data sheet shall include specific information and instructions on the proposed Bidding Process.

14.08 **Evaluation Criteria**

(a) The Contracting Agency shall clearly indicate the factors, methods and criteria to be used in the evaluation of Bids. The factors to be considered include all of the following:

i. Qualifications of the personnel assigned to provide the Consulting Services.

ii. Proposed work method.

iii. Management and administrative support systems to ensure quality control during execution of the Consulting Services.

iv. Knowledge of the language of the Contracting Agency's country by the personnel who will provide the Consulting Services.

v. Technology transfer plan, if any.

vi. Price, depending on the proposed selection method used.

(b) For factors (i), (ii), (iii), and (iv) a minimum acceptable score shall be established for each criterion within each factor, and the factors will be weighted by assigning a relative weight to each. The total of the minimum scores for each criterion shall equal the minimum total score required for all criteria in order for a Consulting Firm to qualify. A maximum score shall also be established, above which a Consulting Firm will receive the maximum points assigned to that criterion. Between these two limits, qualifications for a Consulting Firm may be established using a proportional system or any other appropriate system indicated in the Bidding Documents.

(c) The Evaluation system that will be used, including the manner of weighting the factors, the methods to be used, and other pertinent details, shall be fully

disclosed to the Bidders in the Bidding Documents. The Evaluation shall be conducted using all the factors indicated in said Documents, and no factors, methods or criteria not disclosed to Bidders consistent with this Article shall be used.

- 14.09 **Bid Forms.** The Bidding Documents shall indicate the forms that Consulting Firms shall complete for submitting their Bids, including the form for the Technical Proposal and the form for the Price Proposal.
- 14.10 **List of Eligible Countries.** The Contracting Agency shall include, within the Bidding Documents, the list of eligible countries for the Bank or the MIF, depending on the source of Financing.
- 14.11 **Schedule of Required Consulting Services.** This schedule shall comply with the requirements of Article 13.11. At the Bidding stage, the schedule of Consulting Services shall be complete, with all the necessary details to facilitate preparation of the Bids.
- 14.12 **Contract for the Procurement of the Consulting Services.** A draft of this Contract shall be included in the Bidding Documents which shall include all of the following:
- (a) General Contract Conditions.
 - (b) Special Contract Conditions.
 - (c) Contract Form.
- 14.13 **Beginning of the Bidding Process.** The Bidding Process shall begin with issuance of the Invitation to submit Bids, pursuant to Article 14.04.
- 14.14 **Receipt and Opening of Bids.** The Bids, including the Technical and Price Proposals, shall be received and kept in a safe place until the public opening, at which time they shall be opened in the manner and in the order indicated below, and in accordance with Article 12.05.
- 14.15 **Opening of the Technical Proposals.** The Contracting Agency shall hold a public opening of the Bids and Technical Proposals at the place, on the date, and at the time established in the Letter of Invitation, and in the presence of representatives of those Consulting Firms that wish to attend. The session will proceed as follows:
- (a) The envelopes containing the Bids shall be opened and separated into those with Technical Proposals and those with Price Proposals. The envelopes with Price Proposals shall not be opened and shall be held in safekeeping. The envelopes containing Technical Proposals shall be opened one by one, and the name of the Bidder shall be read aloud, together with any other

information that the Contracting Agency considers relevant. No Bid shall be rejected at the time of Opening, except for those Bids submitted late.

- (b) At the end of the proceedings, the Contracting Agency shall prepare a written record following the formalities specified in Article 12.05 as may be relevant.

14.16 Evaluation of the Technical Proposals. The Contracting Agency shall evaluate only those Technical Proposals that were opened and read aloud at the public opening. It will evaluate the Technical Proposals in accordance with the Evaluation criteria indicated in the Bidding Documents, and shall establish a ranking by order of merit. Technical Proposals that do not achieve the required minimum score shall be disqualified. In the case of Least Cost Based Selection, it shall be sufficient for the Contracting Agency to determine whether a proposal obtains the minimum score, since all Technical Proposals with that score will be considered on an equal basis.

14.17 Notification of the Results of Evaluation of the Technical Proposals

- (a) Once the evaluation of the Technical Proposals is completed, and after the Bank has issued its no objection, the Contracting Agency shall notify the Bidders of the results of the Evaluation, and forward to them a copy of the Evaluation report including the scores given to all Bidders by factor and criteria. Those Bidders whose Bids have obtained or exceeded the minimum score shall be invited to the public opening of the Price Proposals, except in the case of Quality Based Selection method, where the procedure in Article 14.19 (a) shall apply.
- (b) Those Bidders whose Technical Proposals did not achieve the minimum score shall be advised of their disqualification, after obtaining the Bank's no objection. The corresponding envelopes with the Price Proposals shall be returned unopened, but no sooner than ten (10) days after the date of notification of the results of the Evaluation of the Technical Proposals provided that no Protests have been presented. In the case of Protests, the envelopes containing the Price Proposals shall not be returned until the Protests have been resolved.

14.18 Public Opening of Envelopes Containing Price Proposals. Except in the case of the Quality Based Selection, the Contracting Agency shall conduct a second public opening of the envelopes containing the Price Proposals, at the address, on the date and at the time specified in the Letter of Invitation sent by the Contracting Agency for this purpose, and in the presence of the representatives of the Bidders who wish to attend. The public opening shall not be held until the Price Proposal Envelopes have been returned unopened to the Consulting Firms that did not qualify as the result of the evaluation of the Technical Proposals, pursuant to Article 14.17(b). The following procedures shall be observed:

- (a) The sealed envelopes containing the Price Proposals shall be retrieved from their place of safekeeping and shall be opened, one by one. The name of the Bidder, the offered price and any other information that the Contracting Agency considers relevant shall be read aloud. No Price Proposal shall be rejected during the proceedings.
- (b) At the end of the public opening, the Contracting Agency shall prepare a record of the proceedings, in accordance with Article 12.05.

14.19 Evaluation of Price Proposals when using the Quality-Based Selection Method. When using this method, price shall not be a factor for the Evaluation. The process shall proceed as follows:

- (a) The Price Proposal submitted by the Bidder selected as having the best ranked Technical Proposal shall be the basis for negotiating the Contract. It shall be opened in the presence of one or more of the Bidder's representatives. The envelopes containing the Price Proposals submitted by all the other Bidders shall remain sealed and, if an agreement is reached with the selected Bidder, the other envelopes shall be returned unopened.
- (b) During the Contract Negotiations, the terms of reference of the Consulting Services shall be reviewed to ensure that there is complete agreement with the selected Bidder, without substantially altering the basic objectives of the Consulting Services. The contractual and legal requirements shall be examined, and detailed costs shall be prepared.
- (c) If agreement on the terms of the Contract cannot be reached with the selected Bidder, the Bidder shall be notified in writing that its Price Proposal has been rejected, and negotiations shall be initiated with the second ranked Bidder by order of merit, and so on successively until a satisfactory agreement is reached. The Bank's prior no objection is required before using this procedure.

14.20 Evaluation of Price Proposals using the Quality and Cost-Based Selection Method. When using this method, both quality and price shall be factors for Evaluation. The process shall proceed as follows:

- (a) Price Proposals shall be evaluated, and the highest score shall be awarded to the Proposal with the lowest price. Inversely proportional scores shall be assigned to the other Price Proposals. The Technical Proposals and the Price Proposals shall then be weighted in accordance with the relative weights indicated in the Bidding Documents.
- (b) The Contract shall be awarded to the Bidder whose Bid (the Technical Proposal and Price Proposal) is evaluated as the best and that Bidder shall be invited to formalize the Contract.

- (c) If the price of the Bid evaluated as the best is substantially higher than the budget, the Contracting Agency shall disqualify that Bid and shall consider awarding the Contract to the Bidder with the second best evaluated Bid. This process shall be applied successively to all proposals where the price is substantially above the budget. The Bank's prior no objection is required before using this procedure.

14.21 Evaluation of Price Proposals when using the Least Cost Based Selection Method. When using this method, price will be a factor in the Evaluation. The process will proceed as follows:

- (a) Those Technical Proposals meeting the minimum requirements, and whose Price Proposals are to be opened, shall be considered on an equal basis.
- (b) The Price Proposals shall be evaluated and the Contract shall be awarded to the Bidder with the lowest evaluated Price Proposal which shall be considered the Bid evaluated as the best, and shall be invited to sign the Contract.
- (c) If the price of the Bid evaluated as the best is substantially higher than the budget, the Contracting Agency shall disqualify that Bid and shall consider awarding the Contract to the Bidder with the second best evaluated Bid. This process shall be applied successively to all proposals where the price is substantially above the budget. The Bank's prior no objection is required before using this procedure.

14.22 Evaluation of Price Proposals using the Fixed Budget Based Selection Method. When using this method, the Price Proposals may not exceed the price established in the official budget. The process will proceed as follows:

- (a) The Price Proposal of the Bidder with the highest ranked Technical Proposal shall be evaluated. The Contract shall be awarded to the Bidder whose Technical Proposal is evaluated as the best, provided that the Bidder's Price Proposal is equal to or lower than the price established in the official budget, and the Bidding Documents, and the Bidder shall be invited to sign the Contract.
- (b) If the Price Proposal of the Bidder with the best evaluated Technical Proposal is higher than the fixed budget, that Bidder shall be disqualified and the envelope containing the Price Proposal of the next ranked Bidder in order of merit shall be opened.

14.23 Notification of the Results of the Evaluation of the Price Proposals. In cases where price is an Evaluation factor, once the Evaluation of Price Proposals has been finalized and the Bank's no objection obtained, the Contracting Agency shall promptly provide notification of the results of such Evaluation to all Bidders that submitted Bids and provide them with a copy of the Evaluation report including the scores given to all Bidders by factor and criteria. If, after ten (10) days have

elapsed from the date of the notification there are no Protests, the Contracting Agency may proceed to sign the Contract with the Bidder that submitted the Bid evaluated as the best.

- 14.24 **Other Selection Methods.** In cases of emergencies caused by natural and unexpected disasters, if the Bank is financing operations related to such disasters, the Contracting Agency may carry out the Procurement of Consulting Services, as required, in connection with these operations, following procedures specifically established in the Bank's Procurement Policies for emergency projects. The Contracting Agency shall obtain the Bank's no objection before using said procedures.
- 14.25 **Delivery of the draft Consulting Services Procurement Contract and the signed Contract to the Bank.** Once the required local approvals have been obtained, the Contracting Agency shall submit, for the Bank's no objection, the final draft of the Contract negotiated with the Successful Bidder before it is signed. The Contract to be signed shall be substantially similar to the draft approved by the Bank. After the Contract has been signed, a copy shall be forwarded to the Bank as soon as possible.

C. POLICIES AND PROCEDURES FOR THE PROCUREMENT OF CONSULTING SERVICES TO BE PROVIDED BY INDIVIDUAL CONSULTANTS

15. Selection of Individual Consultants, Contracting and Notification

- 15.01 **Selection and Contracting.** Individual Consultants are normally hired to carry out assignments for which: (a) the experience and qualifications of the Individual Consultants are crucial to the task, and (b) there is no requirement for teamwork by a group of professionals or for additional support staff. The procedures for the Selection of Individual Consultants are as follows:
- (a) Before initiating the Selection Process, and after obtaining all necessary local approvals, the Contracting Agency shall submit the following for the Bank's no objection:
 - i. Composition of the Evaluation Committee, the names and positions of its members.
 - ii. The Selection method used, including the Evaluation system.
 - iii. The terms of reference, specifications, schedule of the required Consulting Services, and the budget.

iv. The names of the Individual Consultants tentatively selected in accordance with methodology proposed, indicating their nationality and residency, background, professional experience and language proficiency.

v. The Model Contract that shall be used to Contract the Individual Consultants.

(b) Once the competent authority of the Contracting Agency's country has authorized the Contract (if applicable) and the Bank has issued its no objection, and after fulfilling the notification requirement as indicated in the following Article, the Contracting Agency shall proceed to Contract the Individual Consultants. The Contract to be signed with each of them must conform to the model Contract agreed between the Bank and the Contracting Agency. Once the Contract is signed, the Contracting Agency shall send a copy to the Bank as soon as possible.

(c) When this Contract stipulates that the hiring of certain Individual Consultants shall be supervised ex post by the Bank, the provisions of Article 10.01 of these Policies shall apply.

15.02 Notification of Award or Selection. Regardless of the Bidding Method used, once the Contract for the Procurement of Consulting Services is signed with an Individual Consultant, the Contracting Agency shall promptly provide notification of this fact, in writing, to all other Individual Consultants who were considered but not selected.

D. POLICIES AND PROCEDURES FOR THE PROCUREMENT OF CONSULTING SERVICES TO BE RENDERED BY THE PRIVATE SECTOR

16. Procurement by the Private Sector

16.01 Application of Policies to the Private Sector. 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, these Policies also apply to the private sector, whether the entity is a Borrower of the Bank or a recipient of a Bank guarantee. In particular, these Policies regarding the appropriate use of loan funds and the eligibility of goods, works, and services, as well as policies regarding economy and efficiency, apply to the private sector.

16.02 Bidding in the Private Sector. As a general rule, the Bank permits private sector Borrowers to utilize limited bidding procedures for its procurement which follow market practices for the procurement in question.

16.03 Special Methods of Procurement. In certain circumstances, the Bank may authorize special methods of procurement. Nevertheless, the Bank is careful to ensure that private sector Borrowers utilize competitive methods that guarantee

that the procurement of goods and services is achieved at market prices and corresponds to the requirements of the project. In evaluating a private sector Borrower's procurement method, it is important for the Bank that such method reflect the needs and characteristics of the Borrower.

- 16.04 **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.

III. PROCUREMENT FINANCED BY OTHER SOURCES

17. Criteria and Non-Compliance

- 17.01 **Contracting with Resources not Provided by the Financing.** When the Procurement of Consulting Services is financed exclusively with resources other than the Financing, such as local Counterpart Resources or resources from sources of Financing different from the Bank, the Contracting Agency shall ensure, and be prepared to demonstrate to the Bank at all times, that the contracted Consulting Services meet all of the following criteria:
- (a) They are consistent with the objectives of the Project.
 - (b) They comply with the Procurement Policies of the Entity financing them, or with national legislation in the case of local Counterpart Resources.
 - (c) Market prices were paid.
 - (d) The quality of the service is satisfactory and consistent with the technical requirements of the Project.
 - (e) The delivery and performance schedules are appropriate.
 - (f) The services shall not be provided by Individual Consultants or Consulting Firms that have been declared ineligible by the Bank.
 - (g) The highest ethical standards must be fulfilled.

17.02 **Consequences of Non-Compliance.** The Bank reserves the right to refuse to recognize any procurement of Consulting Services as a Counterpart Resource if, in its judgment, the Procurement Process failed to adhere to the provisions stipulated in Article 17.01.

IV. ELIGIBLE COUNTRIES

18. Bank Member Countries.

18.01 **List of Countries:** Argentina, Austria, Bahamas, Barbados, Belgium, Bolivia, Belize, Brazil, Canada, Colombia, Costa Rica, Chile, Croatia, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Guatemala, Guyana, Haiti, Honduras, Israel, Italy, Jamaica, Japan, Mexico, Netherlands, Nicaragua, Norway, Panama, Paraguay, Peru, Portugal, Slovenia, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, United Kingdom, United States, Uruguay and Venezuela.

18.02 Eligible Territories and Dependencias:

- (a) Netherlands Antilles (Aruba, Curacao, Bonaire, St. Maarten, Saba and Eustatius) participate as departments of the Netherlands.
- (b) Guadeloupe, French Guyana, Martinique and Reunion participate as departments of France.
- (c) Guam, Puerto Rico, and the U.S. Virgin Islands participate as jurisdictions of the United States.

The Bank should be consulted regarding eligibility for procurement of the other successor republics of the former Socialist Federal Republic of Yugoslavia.

19. Member Countries of the Multilateral Investment Fund.

19.01 **List of Countries:** Argentina, Bahamas, Barbados, Bolivia, Belize, Brazil, Canada, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Italy, Jamaica, Japan, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Peru, Portugal, Spain, Suriname, Trinidad and Tobago, United States, Uruguay and Venezuela.

19.02 Eligible Territories and Dependencias:

- (a) Netherlands Antilles (Aruba, Curacao, Bonaire, St. Maarten, Saba and Eustatius) participate as departments of the Netherlands.
- (b) Guadeloupe, French Guyana, Martinique and Reunion participate as departments of France.
- (c) Guam, Puerto Rico, and the U.S. Virgin Islands participate as jurisdictions of the United States.

The Bank should be consulted regarding eligibility for procurement of the other successor republics of the former Socialist Federal Republic of Yugoslavia.