
Guidelines

Procurement

under

IBRD Loans

and

IDA Credits

January 1995
Revised January and August 1996,
September 1997, and January 1999

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The World Bank
1818 H Street, N.W.
Washington, D.C. 20433

© 1985, 1986, 1988, 1992, 1995
Fifth edition, revised and expanded 1995
Revised January and August 1996,
September 1997, and January 1999
The International Bank for Reconstruction
and Development / THE WORLD BANK
1818 H Street, N.W.
Washington, D.C. 20433, U.S.A.

First printing January 1995
Second printing January 1996
Third printing August 1996
Fourth printing April 1998
Fifth printing January 1999
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ISBN 0-8213-3218-X

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I. INTRODUCTION

Purpose

1.1 The purpose of these Guidelines is to inform those carrying out a project that is financed in whole or in part by a loan from the International Bank for Reconstruction and Development (IBRD) or a credit from the International Development Association (IDA),¹ of the arrangements to be made for procuring the goods and works² (including related services) required for the project. The Loan Agreement governs the legal relationships between the Borrower and the Bank, and the Guidelines are made applicable to procurement of goods and works for the project, as provided in the agreement. The rights and obligations of the Borrower and the providers of goods and works for the project are governed by the bidding³ documents, and by the contracts signed by the Borrower with the providers of goods and works, and not by these Guidelines or the Loan Agreements. No party other than the parties to the Loan Agreement shall derive any rights therefrom or have any claim to loan proceeds.

General Considerations

1.2 The responsibility for the implementation of the project, and therefore for the award and administration of contracts under the project, rests with the Borrower.⁴ The Bank, for its part, is required

¹ Procurement requirements of IBRD and IDA are identical, and references in these Guidelines to the Bank include both IBRD and IDA, and references to loans include credits and project preparation facilities (PPFs). Loan Agreement includes Development Credit Agreement and Project Agreement.

² References to “goods” and “works” in these Guidelines include related services such as transportation, insurance, installation, commissioning, training, and initial maintenance. “Goods” includes commodities, raw material, machinery, equipment, and industrial plant. The provisions of these Guidelines also apply to services which are bid and contracted on the basis of performance of a measurable physical output, such as drilling, mapping, and similar operations. These Guidelines do not refer to Consultants’ services, to which the current *Guidelines: Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency* apply (referred to herein as Consultant Guidelines).

³ For the purposes of these Guidelines, the words “bid” and “tender” shall have the same meaning.

⁴ In some cases, the Borrower acts only as an intermediary, and the project is carried out by another agency or entity. References in these Guidelines to the Borrower include such agencies and entities, as well as Sub-Borrowers under on-lending arrangements.

by its Articles of Agreement to “...ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations,”⁵ and it has established detailed procedures for this purpose. While in practice the specific procurement rules and procedures to be followed in the implementation of a project depend on the circumstances of the particular case, four considerations generally guide the Bank’s requirements:

- (a) the need for economy and efficiency in the implementation of the project, including the procurement of the goods and works involved;
- (b) the Bank’s interest, as a cooperative institution, in giving all eligible bidders from developed and developing countries⁶ an opportunity to compete in providing goods and works financed by the Bank;
- (c) the Bank’s interest, as a development institution, in encouraging the development of domestic contracting and manufacturing industries in the borrowing country; and
- (d) the importance of transparency in the procurement process.

1.3 The Bank has found that, in most cases, these needs and interests can best be realized through International Competitive Bidding (ICB), properly administered, and with suitable allowance for preferences for domestically manufactured goods and, where appropriate, for domestic Contractors⁷ for works under prescribed conditions. In such cases,

⁵ The Bank’s Articles of Agreement; Article III, Section 5(b).

⁶ See para. 1.6.

⁷ For purposes of these Guidelines, “Contractor” refers only to a firm providing construction services.

therefore, the Bank requires its Borrowers to obtain goods and works through ICB open to eligible Suppliers and Contractors.⁸ Section II of these Guidelines describes the procedures for ICB.

1.4 On the other hand, where ICB is clearly not the most economic and efficient method of procurement, other methods of procurement are specified in the Loan Agreement. Section III describes these other methods of procurement and the circumstances under which their application would be more appropriate. The particular methods to be followed for the procurement of goods and works for a given project are specified in the Loan Agreement for such project.

Applicability of Guidelines

1.5 Generally the Bank finances only a part of the cost of the project. The procedures outlined in these Guidelines apply to all contracts for goods and works financed in whole or in part from Bank loans. For the procurement of those contracts for goods and works not financed from a Bank loan, the Borrower may adopt other procedures. In such cases the Bank shall be satisfied that the procedures to be used will fulfill the Borrower's obligations to cause the project to be carried out diligently and efficiently, and that the goods and works to be procured:

- (a) are of satisfactory quality and are compatible with the balance of the project;
- (b) will be delivered or completed in timely fashion; and
- (c) are priced so as not to affect adversely the economic and financial viability of the project.

Eligibility

1.6 Funds from Bank loans are disbursed only on account of expenditures for goods and works provided by nationals of, and produced in or supplied from, Bank member countries.⁹ Under this policy, nationals of other countries or bidders offering goods

⁸ See para. 1.6.

⁹ See Section 5.01 of *General Conditions Applicable to Loan and Guarantee Agreements*, dated January 1, 1985. The Bank maintains a list of countries from which bidders, goods, and services are not eligible to participate in procurement financed by the Bank. The list is regularly updated and can be obtained from the Public Information Center of the World Bank.

and works from other countries shall be disqualified from bidding for contracts intended to be financed in whole or in part from Bank loans.

1.7 In connection with any contract to be financed in whole or in part from a Bank loan, the Bank does not permit a Borrower to deny prequalification, if required, to a firm for reasons unrelated to its capability and resources to successfully perform the contract; nor does it permit a Borrower to disqualify any bidder for such reasons.

1.8 As exceptions to the foregoing:

- (a) Firms of a member country or goods manufactured in a member country may be excluded if, (i) as a matter of law or official regulation, the Borrower's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or works required, or (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods from that country or any payments to persons or entities in that country.
- (b) A firm which has been engaged by the Borrower to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works (other than a continuation of the firm's earlier consulting services) for the same project. This provision does not apply to the various firms (Consultants, Contractors, or Suppliers) which together are performing the Contractor's obligations under a turnkey or design and build contract.¹⁰
- (c) Government-owned enterprises in the Borrower's country may participate only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. No dependent agency of the Borrower or Sub-Borrower under a Bank-financed project shall be permitted to bid or

¹⁰ See para. 2.5.

submit a proposal for the procurement of goods or works under the project.¹¹

- (d) A firm declared ineligible by the Bank in accordance with subparagraph (d) of paragraph 1.15 of these Guidelines shall be ineligible to be awarded a Bank-financed contract during the period of time determined by the Bank.

Advance Contracting and Retroactive Financing

1.9 In certain circumstances, such as to accelerate project implementation, the Borrower may wish to proceed with the initial steps of procurement before signing the related Bank loan. The procurement procedures, including advertising, shall be in accordance with the Guidelines in order for the eventual contracts to be eligible for Bank financing, and the normal review process by the Bank shall be followed. A Borrower undertakes such advance contracting at its own risk, and any concurrence by the Bank with the procedures, documentation, or proposal for award does not commit the Bank to make a loan for the project in question. If the contract is signed, reimbursement by the Bank of any payments made by the Borrower under the contract prior to loan signing is referred to as retroactive financing and is only permitted within the limits specified in the Loan Agreement.

Joint Ventures

1.10 Suppliers and Contractors in the Borrower's country are encouraged to participate in the procurement process since the Bank encourages the development of domestic industry. They may bid independently or in joint venture with foreign firms, but the Bank will not accept conditions of bidding which require mandatory joint ventures or other forms of mandatory association between domestic and foreign firms.

Bank Review

1.11 The Bank reviews the Borrower's procurement procedures, documents, bid evaluations, award recommendations, and contracts to ensure that

¹¹ Other than Force Account units, as permitted under para. 3.8.

the procurement process is carried out in accordance with the agreed procedures. These review procedures are described in Appendix 1. The Loan Agreement shall specify the extent to which these review procedures shall apply in respect of the different categories of goods and works to be financed, in whole or in part, from the Bank loan.

Reserved Procurement

1.12 When open competition would be the appropriate method of procurement for particular goods or works of the project, but the Borrower wishes to reserve this procurement for one or more specific firms or enterprises, the Bank may accept such reserved procurement only on condition that:

- (a) it is not eligible for financing out of the Bank loan; and
- (b) it will not significantly affect the satisfactory project implementation in terms of costs, quality, and completion time.

Misprocurement

1.13 The Bank does not finance expenditures for goods and works which have not been procured in accordance with the agreed procedures in the Loan Agreement, and it is the policy of the Bank to cancel that portion of the loan allocated to the goods and works that have been misprocured. The Bank may, in addition, exercise other remedies under the Loan Agreement.

References to Bank

1.14 If the Borrower wishes to refer to the Bank in procurement documents, the following language shall be used:

“(name of Borrower) has received (or in appropriate cases ‘has applied for’) a loan from the International Bank for Reconstruction and Development in various currencies equivalent to USD... toward the cost of (name of project), and intends to apply a portion of the proceeds of this loan to eligible payments under this contract. Payment by the International Bank for Reconstruction and Development will be made only at the request of (name of Borrower or designate)

and upon approval by the International Bank for Reconstruction and Development, and will be subject, in all respects, to the terms and conditions of the Loan Agreement. The Loan Agreement prohibits a withdrawal from the Loan Account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than (name of Borrower) shall derive any rights from the Loan Agreement or have any claim to loan proceeds.”¹²

Fraud and Corruption

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

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Borrower of the benefits of free and open competition;
- (b) will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent

¹² Substitute “credit,” “International Development Association,” and “Credit Agreement,” as appropriate.

practices in competing for the contract in question;

- (c) will cancel the portion of the loan allocated to a contract for goods or works if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the loan during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;
- (d) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Bank-financed contract; and
- (e) will have the right to require that, in contracts financed by a Bank loan, a provision be included requiring Suppliers and Contractors to permit the Bank to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Bank.

1.16. With the specific agreement of the Bank, a Borrower may introduce, into bid forms for large contracts financed by the Bank, an undertaking of the bidder to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery), as listed in the bidding documents.¹³ The Bank will accept the introduction of such undertaking, at the request of the Borrower's country, provided it is satisfied:

- (a) that the requirement of such an undertaking is part of an anti-corruption program initiated by the Borrower's country; and
- (b) that such requirement will apply, within a timetable agreed between the Bank and the

¹³ As an example, such an undertaking might read as follows: "We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in the country of the [Purchaser] [Employer], as such laws have been listed by the [Purchaser] [Employer] in the bidding documents for this contract."

Borrower's country, to all similar public procurement.

II. INTERNATIONAL COMPETITIVE BIDDING

A. General

Introduction

2.1 The objective of International Competitive Bidding (ICB), as described in these Guidelines, is to provide all eligible prospective bidders¹⁴ with timely and adequate notification of a Borrower's requirements and an equal opportunity to bid for the required goods and works.

Type and Size of Contracts

2.2 The bidding documents shall clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate therefor. The most common types of contracts provide for payments on the basis of a lump sum, unit prices, reimbursable cost plus fees, or combinations thereof. Reimbursable cost contracts are acceptable to the Bank only in exceptional circumstances such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts shall include appropriate incentives to limit costs.

2.3 The size and scope of individual contracts will depend on the magnitude, nature, and location of the project. For projects requiring a variety of goods and works, separate contracts generally are awarded for the supply and/or installation of different items of equipment and plant¹⁵ and for the works.

2.4 For a project requiring similar but separate items of equipment or works, bids may be invited under alternative contract options that would attract the interest of both small and large firms, which could be allowed, at their option, to bid for individual contracts (slices) or for a group of similar contracts (package). All bids and combinations of bids shall be

¹⁴ See para. 1.6.

¹⁵ For purposes of these Guidelines, "plant" refers to installed equipment, as in a production facility.

received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest evaluated cost to the Borrower.¹⁶

2.5 In certain cases, such as special processes, closely integrated manufacturing, or works of a special nature, the Bank may accept or require a turnkey contract under which the design and engineering, the supply and installation of equipment, and the construction of a complete industrial plant or works are provided under one contract. Alternatively, the Borrower may remain responsible for the design and engineering, and invite bids for a single responsibility contract for the supply and installation of all goods and works required for the project component. Design and build, and management contracting¹⁷ contracts are also acceptable where appropriate.

Two-Stage Bidding

2.6 Detailed design and engineering of the goods and works to be provided, including the preparation of technical specifications and other bidding documents, normally precede the invitation to bid for major contracts. However, in the case of turnkey contracts or contracts for large complex plants or works of a special nature, it may be undesirable or impractical to prepare complete technical specifications in advance. In such a case, a two-stage bidding procedure may be used, under which first unpriced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments, to be followed by amended bidding documents and the submission of final technical proposals and priced bids in the

¹⁶ See paras. 2.48–2.53 for the bid evaluation procedures.

¹⁷ In construction, a management Contractor usually does not perform the work directly but contracts out and manages the work of other Contractors, taking on the full responsibility and risk for price, quality, and timely performance. Conversely, a construction manager is a Consultant for, or agent of, the Borrower, but does not take on such risks. (If financed by the Bank, the services of the construction manager should be procured under the Consultant Guidelines. See footnote 2.)

second stage. These procedures are also appropriate in the procurement of equipment which is subject to rapid technological advances, such as major computer and communications systems.¹⁸

Notification and Advertising

2.7 Timely notification of bidding opportunities is essential in competitive bidding. For projects which include procurement on the basis of ICB, the Borrower is required to prepare and submit to the Bank a draft General Procurement Notice. The Bank will arrange for its publication in *Development Business* (UNDB).¹⁹ The Notice shall contain information concerning the Borrower (or prospective Borrower), amount and purpose of the loan, scope of procurement under ICB, and the name and address of the Borrower's agency responsible for procurement. If known, the scheduled date for availability of prequalification or bidding documents should be indicated. The Borrower shall maintain a list of responses to the Notice. The related prequalification or bidding documents, as the case may be, shall not be released to the public earlier than eight weeks after the date of publication of the Notice. The General Procurement Notice shall be updated annually for all outstanding procurement.

2.8 The international community shall also be notified in a timely manner of the opportunities to bid for specific contracts. To that end, invitations to prequalify or to bid, as the case may be, shall be advertised as Specific Procurement Notices in at least one newspaper of national circulation in the Borrower's country (and in the official gazette, if any). Such invitations shall also be transmitted to those who have expressed interest in bidding in response to the General Procurement Notice. Publication of the invitations in *Development Business* is also encouraged. Borrowers are also strongly encouraged to transmit such invitations to

¹⁸ As opposed to two-stage bidding, the Bank does not accept the two- or three-envelope system in which bidders are required to submit separate qualification, technical, and price proposals at the same time, but which are opened sequentially in separate sessions and evaluated.

¹⁹ *Development Business* is a publication of the United Nations Department of Public Information, UN Plaza, New York, New York, 10017, U.S.A. A *Development Business* office is maintained at the World Bank, 1818 H Street, N.W., Washington, D.C., 20433, U.S.A.

embassies and trade representatives of countries of likely Suppliers and Contractors. Additionally, for large, specialized, or important contracts, Borrowers shall advertise the invitations in *Development Business* and/or well-known technical magazines, newspapers, and trade publications of wide international circulation. Notification shall be given in sufficient time to enable prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses.²⁰

Prequalification of Bidders

2.9 Prequalification is usually necessary for large or complex works, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom-designed equipment, industrial plant, specialized services, and contracts to be let under turnkey, design and build, or management contracting. This also ensures that invitations to bid are extended only to those who have adequate capabilities and resources. Prequalification may also be useful to determine eligibility for preference for domestic Contractors where this is allowed.²¹ Prequalification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their (i) experience and past performance on similar contracts, (ii) capabilities with respect to personnel, equipment, and construction or manufacturing facilities, and (iii) financial position.²²

2.10 The invitation to prequalify for bidding on specific contracts or groups of similar contracts shall be advertised and notified as described in paragraphs 2.7 and 2.8 above. The scope of the contract and a clear statement of the requirements for qualification shall be sent to those who responded to the invitation. All such applicants that meet the specified criteria shall be allowed to bid. Borrowers shall inform all applicants of the results of prequalification. As soon as prequalification is completed, the bidding documents shall be made available to the qualified prospective bidders. For prequalification for groups

²⁰ See para. 2.43.

²¹ See paras. 2.54–2.55.

²² The Bank has prepared a Standard Prequalification Document for use by its Borrowers, where appropriate.

of contracts to be awarded over a period of time, a limit for the number or total value of awards to any one bidder may be made on the basis of the bidder's resources. The list of prequalified firms in such instances shall be updated periodically. Verification of the information provided in the submission for prequalification shall be confirmed at the time of award of contract, and award may be denied to a bidder that is judged to no longer have the capability or resources to successfully perform the contract.

B. Bidding Documents

General

2.11 The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the goods and works to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid; instructions to bidders; form of bid; form of contract; conditions of contract, both general and special; specifications and drawings; list of goods or bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities. The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their printing and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. Guidance on critical components of the bidding documents are given in the following paragraphs.

2.12 Borrowers shall use the appropriate *Standard Bidding Documents* (SBDs) issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address country- and project-specific issues. Any such changes shall be introduced only through bid or contract data sheets, or through special conditions of contract, and not by introducing changes in the standard wording of the Bank's SBDs. Where no relevant standard bidding documents have been issued, the Borrower shall use other internationally recognized standard conditions of contract and contract forms acceptable to the Bank.

Validity of Bids and Bid Security

2.13 Bidders shall be required to submit bids valid for a period specified in the bidding documents which shall be sufficient to enable the Borrower to complete the comparison and evaluation of bids, review the recommendation of award with the Bank (if required by the Loan Agreement), and obtain all the necessary approvals so that the contract can be awarded within that period.

2.14 Bid security, in the amount specified in the bidding documents, affording the Borrower reasonable protection against irresponsible bids, may be required, but it shall not be set so high as to discourage bidders. The bid security, at the bidder's option, shall be in the form of a certified check, a letter of credit or a bank guarantee from a reputable bank. Bidders shall be allowed to submit bank guarantees directly issued by a bank of their choice located in any eligible country. Bid security shall remain valid for a period of four weeks beyond the validity period for the bids, in order to provide reasonable time for the Borrower to act if the security is to be called. Bid security shall be released to unsuccessful bidders once it is determined that they will not be awarded a contract.

Language

2.15 Prequalification and bidding documents shall be prepared in either English, French, or Spanish, and shall specify that the text of the contract documents in that language is governing. However, contracts entered into with local bidders (excluding joint ventures between local and foreign firms) may, at the Borrower's option, be in the national language of the Borrower, which shall be the governing language for such contracts.

Clarity of Bidding Documents

2.16 Bidding documents shall be so worded as to permit and encourage international competition and shall set forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions. In addition, the

bidding documents, where appropriate, shall define the tests, standards, and methods that will be employed to judge the conformity of equipment as delivered, or works as performed, with the specifications. Drawings shall be consistent with the text of the specifications, and an order of precedence between the two shall be specified.

2.17 The bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated. If bids based on alternative designs, materials, completion schedules, payment terms, etc., are permitted, conditions for their acceptability and the method of their evaluation shall be expressly stated.

2.18 All prospective bidders shall be provided the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis. Borrowers shall provide reasonable access to project sites for visits by prospective bidders. For works or complex supply contracts, particularly for those requiring refurbishing existing works or equipment, a pre-bid conference may be arranged whereby potential bidders may meet with the Borrower representatives to seek clarifications. Minutes of the conference shall be provided to all prospective bidders with a copy to the Bank. Any additional information, clarification, correction of errors, or modifications of bidding documents shall be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. If necessary, the deadline shall be extended.

Standards

2.19 Standards and technical specifications quoted in bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and/or works under procurement. As far as possible, the Borrower shall specify internationally accepted standards such as those issued by the International Standards Organization with which the equipment or materials or workmanship shall comply. Where such international standards are unavailable or are inappropriate, national standards may be specified. In all cases, the bidding documents shall state that equipment, material, or workmanship meeting other

standards, which promise at least substantial equivalence, will also be accepted.

Use of Brand Names

2.20 Specifications shall be based on relevant characteristics and/or performance requirements. References to brand names, catalog numbers, or similar classifications shall be avoided. If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words “or equivalent” shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.

Pricing

2.21 Bids for goods shall be invited on the basis of CIF (port of destination), or CIP²³ (place of destination) for all goods offered from abroad, and EXW²⁴ (ex works, ex factory, or off-the-shelf) for locally available or manufactured or assembled goods, including those previously imported. Bidders shall be allowed to arrange for ocean and other transportation and related insurance from any eligible source.²⁵ Where inland transportation, installation, commissioning, or other similar services are required to be performed by the bidder, as in the case of “supply and installation” contracts, the bidder shall be required to quote for these services, in addition.

2.22 In the case of turnkey contracts, the bidder shall be required to quote the price of the installed plant at site, including all costs for supply of equipment, marine and local transportation and insurance, installation, and commissioning, as well as associated works and all other services included in

²³ Refer to *INCOTERMS 1990* for further definitions. Published by the International Chamber of Commerce, 38 Cours Albert 1^{er}, 75008 Paris, France. CIF is cost, insurance, and freight for maritime transportation. CIP is cost, carriage, and insurance in the case of multimodal transportation. Both terms are for duty unpaid, payment for which is the responsibility of the Borrower.

²⁴ The EXW price shall include all duties, sales, and other taxes already paid or payable for the components and raw materials used in the manufacture or assembly of the equipment, or the prior import of the equipment, offered in the bid.

²⁵ See para. 1.6.

the scope of contract such as design, maintenance, operation, etc. Unless otherwise specified in the bidding documents, the turnkey price shall include all duties, taxes, and other levies.²⁶

2.23 Bidders for works contracts shall be required to quote unit prices or lump sum prices for the performance of the works, and such prices shall include all duties, taxes, and other levies. Bidders shall be allowed to obtain all inputs (except for unskilled labor) from any eligible sources so that they may offer their most competitive bids.

Price Adjustment

2.24 Bidding documents shall state either that (i) bid prices will be fixed or (ii) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within eighteen months, but shall be included in contracts which extend beyond eighteen months. However, it is normal commercial practice to obtain firm prices for some types of equipment regardless of the delivery time and, in such cases, price adjustment provisions are not needed.

2.25 Prices may be adjusted by the use of a prescribed formula (or formulae) which breaks down the total price into components that are adjusted by price indices specified for each component or, alternatively, on the basis of documentary evidence (including actual invoices) provided by the Supplier or Contractor. The use of the formula method of price adjustment is preferable to that of documentary evidence. The method to be used, the formula (if applicable), and the base date for application shall be clearly defined in the bidding documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formula, to avoid incorrect adjustment.

²⁶ Borrowers may prefer to exclude customs duties on imported equipment from the bid prices, since these are difficult to ascertain or, alternatively, to include a “provisional sum” for reimbursement of actual costs. See also Appendix 2, footnote 45.

Transportation and Insurance

2.26 Bidding documents shall permit Suppliers and Contractors to arrange transportation and insurance from any eligible source. Bidding documents shall state the types and terms of insurance to be provided by the bidder. The indemnity payable under transportation insurance shall be at least 110 percent of the contract amount in the currency of the contract or in a freely convertible currency to enable prompt replacement of lost or damaged goods. For works, a Contractor's All Risk form of policy usually shall be specified. For large projects with several Contractors on a site, a "wrap-up" or total project insurance arrangement may be obtained by the Borrower, in which case the Borrower shall seek competition for such insurance.

2.27 As an exception, if a Borrower wishes to reserve transportation and insurance for the import of goods to national companies or other designated sources, bidders shall be asked to quote FOB (port of shipment) or CFR (port of destination)²⁷ prices in addition to the CIF (port of destination) or CIP (place of destination) price specified in paragraph 2.21. Selection of the lowest evaluated bid shall be on the basis of the CIF or CIP price, but the Borrower may sign the contract on FOB or CFR terms and make its own arrangement for transportation and/or insurance. Under such circumstances, disbursements under the Bank loan shall be limited to the FOB or CFR cost. If the Borrower does not wish to obtain insurance coverage in the market, evidence shall be provided to the Bank that resources are readily available for prompt payment in a freely convertible currency of the indemnities required to replace lost or damaged goods.

Currency Provisions

2.28 Bidding documents shall state the currency or currencies in which bidders are to state their prices, the procedure for conversion of prices expressed in different currencies into a single currency for the purpose of comparing bids, and the currencies in which the contract price will be paid. The following provisions (paragraphs 2.29–2.33) are intended to (i) ensure that bidders have the opportunity to minimize

²⁷ *INCOTERMS 1990* for free on board port of shipment, and for cost and freight to port of destination, respectively.

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

Currency of Bid

2.29 Bidding documents shall state that the bidder may express the bid price in the currency of any member country.²⁸ If the bidder wishes to express the bid price as a sum of amounts in different foreign currencies, he may do so, provided the price includes no more than three foreign currencies. Furthermore, the Borrower may require bidders to state the portion of the bid price representing local costs in the currency²⁹ of the country of the Borrower.

2.30 In bidding documents for works, the Borrower may require bidders to state the bid price entirely in the local currency, along with the requirements for payments in up to three foreign currencies of their choice for expected inputs from outside the Borrower's country (which inputs the bidders may be required to list), expressed as a percentage of the bid price, together with the exchange rates used in such calculations.

Currency Conversion for Bid Comparison

2.31 The bid price is the sum of all payments in various currencies required by the bidder. For the purpose of comparing prices, bid prices shall be converted to a single currency selected by the Borrower (local currency or fully convertible foreign currency) and stated in the bidding documents. The Borrower shall make this conversion by using the selling (exchange) rates for those currencies quoted

²⁸ Until December 31, 2001, bid prices may also be expressed in the former national currencies of the member countries of the European Monetary Union (the Austrian schilling, Belgian franc, Finnish markka, French franc, Deutsche mark, Irish pound, Italian lira, Luxembourg franc, Netherlands guilder, Portuguese escudo and Spanish peseta). On January 1, 1999, the euro was substituted for these currencies. From that date these currencies were irrevocably fixed vis-à-vis the euro. Until December 31, 2001, these currencies remain in existence as non-decimal sub-denominations of the euro.

²⁹ Referred to hereafter as local currency.

by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper for similar transactions on a date selected in advance, such source and date to be specified in the bidding documents, provided that the date shall not be earlier than four weeks prior to the deadline for the receipt of bids, nor later than the original date for the expiry of the period of bid validity.

Currency of Payment

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

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

Terms and Methods of Payment

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

- (a) Contracts for supply of goods shall provide for full payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the Supplier has complied with all its obligations under the contract. The use of letters of credit is encouraged so as to assure prompt payment to the Supplier. In major contracts for equipment and plant, provision shall be made for suitable advances and, in contracts of long duration, for progress payments during the period of manufacture or assembly.
- (b) Contracts for works shall provide in appropriate cases for mobilization advances, advances on Contractor's equipment and materials, regular progress payments, and reasonable retention amounts to be released upon compliance with the Contractor's obligations under contract.

2.35 Any advance payment for mobilization and similar expenses, made upon signature of a contract for goods or works, shall be related to the estimated amount of these expenses and be specified in the bidding documents. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified. The bidding documents shall specify the arrangements for any security required for advance payments.

2.36 Bidding documents shall specify the payment method and terms offered, whether alternative payment methods and terms would be allowed and, if so, under what circumstances. The method of payment shall take into account the available procedures for withdrawals of the proceeds of the loan, as described in Appendix 3.

Conditions of Contract

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

Performance Security

2.38 Bidding documents for works shall require security in an amount sufficient to protect the Borrower in case of breach of contract by the Contractor. This security shall be provided by a performance bond or a bank guarantee in an appropriate form and amount, as specified by the Borrower in the bidding document. The amount of the bond or guarantee may vary, depending on the type of security furnished and on the nature and magnitude of the works. A portion of this security shall extend sufficiently beyond the date of completion of the works to cover the defects liability or maintenance period up to final acceptance by the Borrower; alternatively, contracts may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors

may be allowed to replace retention money with an equivalent security after provisional acceptance.

2.39 In contracts for the supply of goods, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. Suppliers or manufacturers may be required to provide a bank guarantee to protect against nonperformance of the contract. Such security in an appropriate amount may also cover warranty obligations or, alternatively, a percentage of the payments may be held as retention money to cover warranty obligations, and any installation or commissioning requirements. The security or retention money shall be reasonable in amount.

Liquidated Damages and Bonus Clauses

2.40 Provisions for liquidated damages or similar provisions in an appropriate amount shall be included in the conditions of contract when delays in the delivery of goods, completion of works or failure of the goods or works to meet performance requirements would result in extra cost, or loss of revenue or loss of other benefits to the Borrower. Provision may also be made for a bonus to be paid to Suppliers or Contractors for completion of works or delivery of goods ahead of the times specified in the contract when such earlier completion or delivery would be of benefit to the Borrower.

Force Majeure

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

Applicable Law and Settlement of Disputes

2.42 The conditions of contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. International commercial arbitration may have practical advantages over other methods for the settlement of disputes. Borrowers are, therefore, encouraged to provide for this type of arbitration in contracts for the procurement of goods and works. The Bank shall not be named arbitrator or be asked to name an

arbitrator.³⁰ In case of works contracts, supply and installation contracts, and turnkey contracts, the dispute settlement provision shall also include mechanisms such as dispute review boards or adjudicators, which are designed to permit a speedier dispute settlement.

C. Bid Opening, Evaluation, and Award of Contract

Time for Preparation of Bids

2.43 The time allowed for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the project and the magnitude and complexity of the contract. Generally, not less than six weeks from the date of the invitation to bid or the date of availability of bidding documents, whichever is later, shall be allowed for ICB. Where large works or complex items of equipment are involved, this period shall generally be not less than twelve weeks to enable prospective bidders to conduct investigations before submitting their bids. In such cases, the Borrower is encouraged to convene pre-bid conferences and arrange site visits. Bidders shall be permitted to submit bids by mail or by hand. The deadline and place for receipt of bids shall be specified in the invitation to bid.

Bid Opening Procedures

2.44 The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly³¹ thereafter, and shall be announced, together with the place for bid opening, in the invitation to bid. The Borrower shall open all bids at the stipulated time and place. Bids shall be opened in public; that is, bidders or their representatives shall be allowed to be present. The name of the bidder and total amount of each bid, and of any alternative bids if they have been requested or permitted, shall be read aloud and recorded when opened and a copy of this record shall be promptly sent to the Bank. Bids received after the

³⁰ It is understood, however, that officials of the International Centre for Settlement of Investment Disputes (ICSID) shall remain free to name arbitrators in their capacity as ICSID officials.

³¹ To allow sufficient time to take the bids to the place announced for public bid opening.

time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

Clarifications or Alterations of Bids

2.45 Except as otherwise provided in paragraphs 2.61 and 2.62 of these Guidelines, bidders shall not be requested or permitted to alter their bids after the deadline for receipt of bids. The Borrower shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing.

Confidentiality

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

Examination of Bids

2.47 The Borrower shall ascertain whether the bids (i) meet the eligibility requirements specified in paragraph 1.6 of these Guidelines, (ii) have been properly signed, (iii) are accompanied by the required securities, (iv) are substantially responsive to the bidding documents, and (v) are otherwise generally in order. If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions, and specifications in the bidding documents, it shall not be considered further. The bidder shall not be permitted to correct or withdraw material deviations or reservations once bids have been opened.³²

Evaluation and Comparison of Bids

2.48 The purpose of bid evaluation is to determine the cost to the Borrower of each bid in a manner that permits a comparison on the basis of their evaluated cost. Subject to paragraph 2.57, the bid with the lowest evaluated cost,³³ but not necessarily the lowest submitted price, shall be selected for award.

³² See para. 2.49 regarding corrections.

³³ See para. 2.51.

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

2.50 The evaluation and comparison of bids shall be on CIF or CIP prices for the supply of imported goods and EXW prices for goods offered from within the Borrower's country, together with prices for any required installation, training, commissioning, and other similar services.

2.51 Bidding documents shall also specify the relevant factors in addition to price to be considered in bid evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated bid. For goods and equipment, other factors which may be taken into consideration include, among others, costs of inland transport and insurance to the specified site, payment schedule, delivery time, operating costs, efficiency and compatibility of the equipment, availability of service and spare parts, and related training, safety, and environmental benefits. The factors other than price to be used for determining the lowest evaluated bid shall, to the extent practicable, be expressed in monetary terms, or given a relative weight in the evaluation provisions in the bidding documents.

2.52 Under works and turnkey contracts, Contractors are responsible for all duties, taxes, and other levies,³⁴ and bidders shall take these factors into account in preparing their bids. The evaluation and comparison of bids shall be on this basis. Bid evaluation for works shall be strictly in monetary terms. Any procedure under which bids above or below a predetermined assessment of bid values are automatically disqualified is not acceptable. If time is a critical factor, the value of early completion to the Borrower may be taken into account according to criteria presented in the bidding documents, only if the conditions of contract provide for commensurate penalties for noncompliance.

³⁴ Unless bidding documents specify otherwise for some turnkey contracts (see para. 2.22 and footnote 26).

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

Domestic Preferences

2.54 At the request of the Borrower, and under conditions to be agreed under the Loan Agreement and set forth in the bidding documents, a margin of preference may be provided in the evaluation of bids for:

- (a) goods manufactured in the country of the Borrower when comparing bids offering such goods with those offering goods manufactured abroad; and
- (b) works in member countries below a specified threshold of GNP³⁵ per capita, when comparing bids from eligible domestic Contractors with those from foreign firms.

2.55 Where preference for domestically manufactured goods or for domestic Contractors is allowed, the methods and stages set forth in Appendix 2 to these Guidelines shall be followed in the evaluation and comparison of bids.

Extension of Validity of Bids

2.56 Borrowers shall complete evaluation of bids and award of contract within the initial period of bid validity so that extensions are not necessary. An extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from all bidders before the expiration date. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary approvals, and award the contract. In the case of fixed price contracts, requests for second and subsequent extensions will be permissible only if the request for extension provides for an appropriate adjustment mechanism of the quoted price to reflect changes in the cost of inputs for the contract over the period of extension. Whenever an extension of bid validity period is requested, bidders shall not be requested or be permitted to change the quoted (base) price or other conditions of their bid. Bidders shall have the

³⁵ Gross national product as defined annually by the Bank.

right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid shall be required to provide a suitable extension of bid security.

Postqualification of Bidders

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

Award of Contract

2.58 The Borrower shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated cost.³⁶ A bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

Rejection of All Bids

2.59 Bidding documents usually provide that Borrowers may reject all bids. Rejection of all bids is justified when there is lack of effective competition, or bids are not substantially responsive. However, lack of competition shall not be determined solely on the basis of the number of bidders. If all bids are rejected, the Borrower shall review the causes justifying the rejection and consider making revisions to the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids.

2.60 If the rejection of all bids is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the bids being

³⁶ Referred to as “lowest evaluated bidder” and “lowest evaluated bid,” respectively.

nonresponsive, new bids may be invited from the initially prequalified firms, or with the agreement of the Bank from only those that submitted bids in the first instance.

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

2.62 The Bank's prior concurrence shall be obtained before rejecting all bids, soliciting new bids, or entering into negotiations with the lowest evaluated bidder.

D. Modified ICB

Quick Disbursement Operations

2.63 Where the loan provides financing for an imports program, as in the case of adjustment operations and other quick disbursement loans, ICB with simplified advertising and currency provisions shall be used for large value contracts, as defined in the Loan Agreement.³⁷

2.64 The simplified provisions for notification of ICB procurement do not require a General Procurement Notice. Specific Procurement Notices shall be inserted in at least one newspaper of national circulation in the Borrower's country (and in the official gazette, if any) in addition to either: (i) *Development Business*; or (ii) a newspaper,

³⁷ Other procurement is normally carried out in accordance with procedures followed by the private or public entity handling the imports, or other established commercial practices acceptable to the Bank, as described in para. 3.12.

periodical, or technical journal of wide multinational circulation. The period allowed for submission of bids may be reduced to four weeks. Bidding and payment may be limited to one currency widely used in international trade.

Procurement of Commodities

2.65 Market prices of commodities, such as grain, animal feed, cooking oil, fuel, fertilizer, and metals, fluctuate, depending upon the demand and supply at any particular time. Many are quoted in established commodity markets. Procurement often involves multiple awards for partial quantities to assure security of supply and multiple purchases over a period of time to take advantage of favorable market conditions and to keep inventories low. A list of prequalified bidders may be drawn up to whom periodic invitations are issued. Bidders may be invited to quote prices linked to the market price at the time of or prior to the shipments. Bid validities shall be as short as possible. A single currency in which the commodity is usually priced in the market, may be used for bidding and payment. The currency shall be specified in the bidding document. Bidding documents may permit telexed or faxed bids, if there is no requirement for bid security, or if standing bid securities valid over a specified period of time have been submitted by prequalified bidders. Standard contract conditions and forms consistent with market practices shall be used.

III. OTHER METHODS OF PROCUREMENT

General

3.1 There are circumstances where ICB would not be the most economic and efficient method of procurement, and where other methods are deemed more appropriate. The particular procurement methods and the categories of goods and works to which they apply are determined by agreement between the Bank and the Borrower, and are specified in the Loan Agreement.³⁸ The Bank's policies with respect to margins of preference for domestically manufactured goods and Contractors do not apply to methods of procurement other than ICB. The more common procurement methods which are generally considered in situations where ICB may not be suitable are set forth in this section.

Limited International Bidding

3.2 Limited International Bidding (LIB) is essentially ICB by direct invitation without open advertisement. It may be an appropriate method of procurement where (i) the contract values are small, or (ii) there is only a limited number of Suppliers, or (iii) other exceptional reasons may justify departure from full ICB procedures. Under LIB, Borrowers shall seek bids from a list of potential Suppliers broad enough to assure competitive prices, such list to include all Suppliers when there are only a limited number. Domestic preferences are not applicable in the evaluation of bids under LIB. In all respects other than advertisement and preferences, ICB procedures shall apply.

National Competitive Bidding

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

³⁸ Contracts shall not be divided into smaller units in order to make them less attractive for ICB procedures; any proposal to divide a contract into smaller packages shall require the prior approval of the Bank.

these procedures shall be reviewed and modified as necessary to assure economy, efficiency, transparency, and broad consistency with the provisions included in Section I of these Guidelines. NCB may be the preferred method of procurement where foreign bidders are not expected to be interested because (i) the contract values are small, (ii) works are scattered geographically or spread over time, (iii) works are labor intensive, or (iv) the goods or works are available locally at prices below the international market. NCB procedures may also be used where the advantages of ICB are clearly outweighed by the administrative or financial burden involved.

3.4 Publication of a General Procurement Notice is not required for NCB, and advertising may be limited to the national press or official gazette. Bidding documents may be in an official language of the country, and local currency is generally used for the purposes of bidding and payment. Adequate response time for preparation and submission of bids shall be provided. The procedures shall provide for adequate competition in order to ensure reasonable prices, and methods used in the evaluation of bids and the award of contracts shall be made known to all bidders and not be applied arbitrarily. If foreign firms wish to participate under these circumstances, they shall be allowed to do so.

Shopping (International and National)

3.5 Shopping is a procurement method based on comparing price quotations obtained from several Suppliers, usually at least three, to assure competitive prices, and is an appropriate method for procuring readily available off-the-shelf goods or standard specification commodities that are small in value. Requests for quotations shall indicate the description and quantity of the goods, as well as desired delivery time and place. Quotations may be submitted by telex or facsimile. The evaluation of quotations shall follow sound public or private sector practices of the purchaser. The terms of the accepted offer shall be incorporated in a purchase order.

3.6 International shopping shall solicit quotations from at least three Suppliers in two different countries. National shopping may be used where the desired goods are ordinarily available from more than one source in the country of the Borrower at competitive prices.

Direct Contracting

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

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

Force Account

3.8 Force account, that is, construction by the use of the Borrower's own personnel and equipment,³⁹ may be the only practical method for constructing some kinds of works. The use of force account may be justified where:

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

Procurement from United Nations Agencies

3.9 There may be situations in which procurement from specialized agencies of the United Nations (UN), acting as Suppliers, pursuant to their own procedures, may be the most economical and efficient way of procuring small quantities of off-the-shelf goods, primarily in the fields of education, health, and rural water supply and sanitation.

Procurement Agents

3.10 Where Borrowers lack the necessary organization, resources, and experience, Borrowers may wish (or be required by the Bank) to employ, as their agent, a firm specializing in handling international procurement. The agent shall strictly follow all the procurement procedures outlined in the Loan Agreement on behalf of the Borrower, including use of Bank *Standard Bidding Documents* (SBDs), review procedures, and documentation. This also applies in cases where UN agencies act as

³⁹ A government-owned construction unit that is not managerially and financially autonomous shall be considered a force account unit. "Force account" is otherwise known as "direct labor," "departmental forces," or "direct work."

procurement agents.⁴⁰ Management Contractors may be employed in a similar manner for a fee to contract for miscellaneous works involving reconstruction, repairs, rehabilitation, and new constructions in emergency situations, or where large numbers of small contracts are involved.

Inspection Agents

3.11 Preshipment inspection and certification of imports is one of the safeguards for the Borrower, particularly where the country has a large import program. The inspection and certification usually covers quality, quantity, and reasonableness of price. Imports procured through ICB procedures shall not be subject to price verification, but only verification for quality and quantity. However, imports not procured through ICB may additionally be subjected to price verification. The inspection agents are ordinarily paid for on a fee basis levied on the value of the goods. Costs for certification of imports shall not be considered in the evaluation of bids under ICB.

Procurement in Loans to Financial Intermediaries

3.12 Where the loan provides funds to an intermediary institution such as an agricultural credit institution or a development finance company, to be re-lent to beneficiaries such as individuals, private sector enterprises, or autonomous commercial enterprises in the public sector for the partial financing of subprojects, the procurement is usually undertaken by the respective beneficiaries in accordance with established local private sector or commercial practices, which are acceptable to the Bank. However, even in these situations, ICB may be the more efficient and economic procurement method for the purchase of large single items or in cases where large quantities of like goods can be grouped together for bulk purchasing.

⁴⁰ The Consultant Guidelines shall apply for the selection of procurement and inspection agents. The cost or fee of the procurement or inspection agent is eligible for financing from the Bank loan, if so provided in the Loan Agreement, and provided the terms and conditions of selection and employment are acceptable to the Bank.

Procurement under BOT and Similar Private Sector Arrangements

3.13 Where the Bank is participating in financing the cost of a project procured under a BOO/BOT/BOOT⁴¹ or similar type of private sector arrangement, either of the following procurement procedures shall be used, as set forth in detail in the Staff Appraisal Report, the President's Report, and the Loan Agreement:

- (a) The entrepreneur under the BOO/BOT/BOOT or similar type of contract⁴² shall be selected under ICB or LIB procedures acceptable to the Bank, which may include several stages in order to arrive at the optimal combination of evaluation criteria, such as the cost and magnitude of the financing offered, the performance specifications of the facilities offered, the cost charged to the user or purchaser, other income generated for the Borrower or purchaser by the facility, and the period of the facility's depreciation. The said entrepreneur selected in this manner shall then be free to procure the goods, works, and services required for the facility from eligible sources, using its own procedures. In this case, the Staff Appraisal Report, the President's Report, and the Loan Agreement shall specify the type of expenditures incurred by the said entrepreneur towards which Bank financing will apply.
Or,
- (b) If the said entrepreneur has not been selected in the manner set forth in subparagraph (a) above, the goods, works, or services required for the facility and to be financed by the Bank shall be procured in accordance with ICB or LIB procedures.

Procurement under Loans Guaranteed by the Bank

3.14 If the Bank guarantees the repayment of a loan made by another lender, the goods and works

⁴¹ BOO: Build, Own, Operate.
BOT: Build, Operate, Transfer.
BOOT: Build, Own, Operate, Transfer.

⁴² For projects such as toll roads, tunnels, harbors, bridges, power stations, waste disposal plants, and water distribution systems.

financed by the said loan shall be procured with due attention to economy and efficiency and in accordance with procedures which meet the requirements of paragraph 1.5.

Community Participation in Procurement

3.15 Where, in the interest of project sustainability, or to achieve certain specific social objectives of the project, it is desirable in selected project components to (i) call for the participation of local communities and/or nongovernmental organizations (NGOs), or (ii) increase the utilization of local know-how and materials, or (iii) employ labor-intensive and other appropriate technologies, the procurement procedures, specifications, and contract packaging shall be suitably adapted to reflect these considerations, provided these are efficient. The procedures proposed shall be outlined in the Staff Appraisal Report, the President's Report, and the Loan Agreement.

REVIEW BY THE BANK OF PROCUREMENT DECISIONS

Scheduling of Procurement

1. The Bank shall review the procurement arrangements proposed by the Borrower, including contract packaging, applicable procedures, and the scheduling of the procurement process, for its conformity with these Guidelines and proposed implementation program and disbursement schedule. The Borrower shall promptly inform the Bank of any delay, or other changes in the scheduling of the procurement process, which could significantly affect the timely and successful implementation of the project contracts, and agree with the Bank on corrective measures.

Prior Review

2. With respect to all contracts which, in accordance with the Loan Agreement, are made subject to the Bank's prior review:

- (a) In cases where prequalification is used, the Borrower shall, before prequalification submissions are invited, furnish the Bank with the draft documents to be used, including the text of the invitation to prequalify, the prequalification questionnaire, and the evaluation methodology, together with a description of the advertising procedures to be followed, and shall introduce such modifications in said procedure and documents, as the Bank shall reasonably request. The list of prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification, shall be furnished by the Borrower to the Bank for its comments before the applicants are notified of the Borrower's decision, and the Borrower shall make such additions to, deletions from, or modifications in the said list as the Bank shall reasonably request.
- (b) Before bids are invited, the Borrower shall furnish to the Bank for its comments, draft bidding documents, including the invitation to bid; instructions to bidders, including the basis

of bid evaluation and contract award; and the conditions of contract and specifications for the civil works, supply of goods, or installation of equipment, etc., as the case may be, together with a description of the advertising procedures to be followed for the bidding (if prequalification has not been used), and shall make such modifications in the said documents as the Bank shall reasonably request. Any further modification shall require the Bank's concurrence before it is issued to the prospective bidders.

- (c) After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, furnish to the Bank, in sufficient time for its review, a detailed report (prepared, if the Bank shall so request, by experts acceptable to the Bank), on the evaluation and comparison of the bids received, together with the recommendations for award and such other information as the Bank shall reasonably request. The Bank shall, if it determines that the intended award would be inconsistent with the Loan Agreement, promptly inform the Borrower and state the reasons for such determination.
- (d) If the Borrower requires an extension of bid validity to complete the process of evaluation, obtain necessary approvals and clearances, and to make the award, it should seek the Bank's prior concurrence for the first request for extension, if it is longer than eight weeks, and for all subsequent requests for extension, irrespective of the period.
- (e) The terms and conditions of a contract shall not, without the Bank's concurrence, materially differ from those on which bids were asked or prequalification of Contractors, if any, was invited.
- (f) One conformed copy of the contract shall be furnished to the Bank promptly after its execution and prior to delivery to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract. Where payments for the contract are to be made out of a Special Account (SA), a copy of the contract shall be furnished to the Bank prior to the making of the first payment out of the SA in respect of such contract.

- (g) All evaluation reports shall be accompanied with a summary of the procurement on a form provided by the Bank. The description and amount of the contract, together with the name and address of the successful bidder, shall be subject to release by the Bank upon confirmation by the Borrower of contract award.

Modifications

3. In the case of contracts subject to prior review, before granting a material extension of the stipulated time for performance of a contract, agreeing to any modification or waiver of the conditions of such contract, including issuing any change order or orders under such contract (except in cases of extreme urgency) which would in aggregate increase the original amount of the contract by more than 15 percent of the original price, the Borrower shall inform the Bank of the proposed extension, modification, or change order and the reasons therefor. If the Bank determines that the proposal would be inconsistent with the provisions of the Loan Agreement, it shall promptly inform the Borrower and state the reasons for its determination. A copy of all amendments to the contract shall be furnished to the Bank for its record.

Post Review

4. With respect to each contract not governed by paragraph 2, the Borrower shall furnish to the Bank, promptly after its signing and prior to delivery to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract, one conformed copy of such contract, together with the analysis of the respective bids, recommendations for award, and such other information as the Bank shall reasonably request. Where payments for the contract are to be made out of a Special Account, a copy of the contract, together with the other information required to be furnished to the Bank, shall be furnished to the Bank prior to delivery to the Bank of the first replenishment application in respect of such contract. The Bank shall, if it determines that the award of the contract or the contract itself is not consistent with the Loan Agreement, promptly inform the Borrower and state the reasons for such determination. These provisions shall not apply to contracts on account of which withdrawals from the

loan are to be made on the basis of Statements of Expenditure,⁴³ for which case all such documents shall be retained by the Borrower for subsequent examination by independent auditors and Bank supervision missions.

Translations

5. If a contract awarded under ICB procedures to a local bidder is written in the national language,⁴⁴ a certified translation of the contract in either English, French, or Spanish shall be furnished to the Bank together with the conformed copy of the contract. Such certified translations shall also be furnished to the Bank, for any subsequent modifications of such contracts.

⁴³ Refer to Appendix 3.

⁴⁴ Refer to para. 2.15.

DOMESTIC PREFERENCES

Preference for Domestically Manufactured Goods

1. The Borrower may, with the agreement of the Bank, grant a margin of preference in the evaluation of bids under ICB procedures to bids offering certain goods manufactured in the country of the Borrower, when compared to bids offering such goods manufactured elsewhere. In such cases, bidding documents shall clearly indicate any preference to be granted to domestic manufactured goods and the information required to establish the eligibility of a bid for such preference. The nationality of the manufacturer or Supplier is not a condition for such eligibility. The methods and stages set forth hereunder shall be followed in the evaluation and comparison of bids.

2. For comparison, responsive bids shall be classified in one of the following three groups:

- (a) Group A: bids offering goods manufactured in the country of the Borrower if the bidder establishes to the satisfaction of the Borrower and the Bank that (i) labor, raw material, and components from within the country of the Borrower will account for more than 30 percent of the EXW price of the product offered, and (ii) the production facility in which those goods will be manufactured or assembled has been engaged in manufacturing/assembling such goods at least since the time of bid submission.
- (b) Group B: all other bids offering goods from within the country of the Borrower.
- (c) Group C: bids offering the goods from abroad and to be directly imported.

3. The EXW price quoted by a Group A bidder shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported. Similarly, prices quoted by Group B bidders shall include all duties and taxes on components and raw materials. The price quoted by Group A and B bidders shall exclude

the sales and similar taxes on the finished product. The price quoted by Group C bidders shall be on CIF or CIP border point or other destination, exclusive of customs duties and other import taxes.

4. In the first step, all evaluated bids in each group shall be compared to determine the lowest evaluated bid in each. Such lowest evaluated bids shall then be compared with each other and if, as a result of this comparison, a bid from Group A or Group B is the lowest, it shall be selected for the award.

5. If, as a result of the comparison under paragraph 4 above, the lowest evaluated bid is a bid from Group C, all Group C bids shall be further compared with the lowest evaluated bid from Group A after adding to the evaluated bid price of the imported goods offered in each Group C bid, for the purpose of this further comparison only, an amount equal to: (i) the amount of duties and other related import charges which a nonexempt importer would have to pay for the importation of the goods offered in such Group C bid; or (ii) 15 percent of the CIF or CIP bid price of such goods if said duties and charges exceed 15 percent of such price. If the Group A bid in such further comparison is the lowest, it shall be selected for the award; if not, the lowest evaluated bid from Group C, as determined from the comparison under paragraph 4, shall be selected.

6. In the case of single responsibility, supply and installation or turnkey⁴⁵ contracts in which a number of discrete items of equipment is grouped into one contract package, the preference margin shall not be applied to the whole package, but only to the locally-manufactured equipment within the package. Equipment offered from abroad shall be quoted CIF or CIP, and equipment offered locally EXW (free of sales and similar taxes); all other components, such as design, works, installation, and supervision, shall be quoted separately. Bids should not be classified into groups A, B, or C. In the comparison of bids, only the CIF or CIP price in each bid of the equipment offered from outside the Borrower's country shall be increased by the applicable duty and

⁴⁵ These provisions apply only if customs duties are excluded from the bid prices, and the price of imported goods quoted is on a CIF or CIP basis.

other taxes payable by a nonexempt importer or 15 percent, whichever is less. If duties vary from item to item within a package, the appropriate tariff for each piece of equipment shall apply. No preference shall be applied for any associated services or works included in the package.

Preference for Domestic Contractors

7. For contracts for works to be awarded on the basis of ICB, eligible Borrowers may, with the agreement of the Bank, grant a margin of preference of 7.5 percent to domestic Contractors,⁴⁶ in accordance with, and subject to, the following provisions:

- (a) Contractors applying for such preference shall be asked to provide, as part of the data for qualification,⁴⁷ such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Borrower and accepted by the Bank, a particular Contractor or group of Contractors qualifies for a domestic preference. The bidding documents shall clearly indicate the preference and the method that will be followed in the evaluation and comparison of bids to give effect to such preference.
- (b) After bids have been received and reviewed by the Borrower, responsive bids shall be classified into the following groups:
 - (i) Group A: bids offered by domestic Contractors eligible for the preference.
 - (ii) Group B: bids offered by other Contractors.

For the purpose of evaluation and comparison of bids, an amount equal to 7.5 percent of the bid amount shall be added to bids received from Contractors in Group B.

⁴⁶ Preference for domestic Contractors is applicable only in countries which qualify. See subpara. 2.54(b).

⁴⁷ At the prequalification and/or at the bidding stage.

DISBURSEMENTS

1. The responsibility for the implementation of the project, and therefore for the payment of goods, works, and services under the project, rests solely with the Borrower. The Bank, for its part, is required by its Articles of Agreement to ensure that funds are paid from a Bank loan only as expenditures are incurred. Disbursements of the proceeds of a loan are made only at the Borrower's request. Supporting evidence that the funds are used in accordance with the Loan Agreement shall be submitted with the Borrower's withdrawal application. Payment may be made (i) to reimburse the Borrower for payment(s) already made from its own resources, (ii) directly to a third party (usually to a Supplier or Consultant), or (iii) to a commercial bank for expenditures against a World Bank Special Commitment covering a commercial bank's letter of credit.

2. Two widely used procedures with special requirements are Statements of Expenditure (SOEs) and Special Accounts (SAs). The SOE method is used to reimburse the Borrower when documentation would otherwise be cumbersome or voluminous (for example, expenditures on civil works carried out by force account or payments against small contracts or purchase orders). For withdrawals against SOEs, the Borrower submits a form with details of the expenditures (the SOE form) and retains the actual supporting documentation in the field for subsequent examination by independent auditors and Bank supervision missions.

3. Special Accounts (SAs) are revolving accounts funded with an advance from a Bank loan for use by the Borrower exclusively to cover the Bank's share of eligible expenses in both local and foreign currencies. The primary objective of the SA is to help the Borrower overcome cash flow problems and speed disbursements. The Borrower makes payments from the account to Contractors, Suppliers, and others when the payments are due. The Bank replenishes the SA regularly upon receipt of a withdrawal application with appropriate supporting documentation from the Borrower. Towards the end of loan disbursements, the Bank initiates a recovery

procedure to obtain full documentation for the amount of the outstanding advance.

4. The Loan Agreement and the disbursement letter outline the disbursement procedures to be followed for the loan, including retroactive financing provisions, items eligible for disbursement under the Statement of Expenditure (SOE) procedure, requirements for the operation of a Special Account (SA), and a minimum application value. The minimum value varies among loans depending on the size of the loan and the nature of the project. Where there is an SA, the minimum value is generally between 10 percent and 33 percent of the total advanced to the SA. The method of payment specified in the bidding documents shall take into account the disbursement procedures applicable to the concerned loan.

5. A complete description of the Bank's disbursement procedures is provided in the *Disbursement Handbook*.

GUIDANCE TO BIDDERS

Purpose

1. This Appendix provides guidance to potential bidders wishing to participate in Bank-financed procurement.

Responsibility for Procurement

2. As emphasized in paragraph 1.2 of the Guidelines, the Borrower is legally responsible for the procurement. It invites, receives, and evaluates bids, and awards the contract. The contract is between the Borrower and the Supplier or Contractor. The Bank is not a party to the contract.

Bank's Role

3. As stated in paragraph 1.11 of the Guidelines, the Bank reviews the procurement procedures, documents, bid evaluations, award recommendations, and the contract to ensure that the process is carried out in accordance with agreed procedures, as required in the Loan Agreement. In the case of major contracts (defined usually by a dollar threshold in each Loan Agreement), the documents are reviewed by the Bank prior to their issue, as described in Appendix 1. Also, if, at any time in the procurement process (even after the award of contract), the Bank concludes that the agreed procedures were not followed in any material respect, the Bank may declare misprocurement, as described in paragraph 1.13. However, if a Borrower has awarded a contract after obtaining the Bank's "no objection," the Bank will declare misprocurement only if the "no objection" was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower. Furthermore, if the Bank determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of the bidder, the Bank may impose the applicable sanctions set forth in paragraph 1.15 of the Guidelines.

4. The Bank has published *Standard Bidding Documents* (SBDs) for various types of procurement. As stated in paragraph 2.12 of the Guidelines, it is mandatory for the Borrower to use these documents, with minimum changes to address country- and

project-specific issues. The prequalification and bidding documents are finalized and issued by the Borrower.

Information on Bidding

5. Information on bidding opportunities under ICB may be obtained from the General Procurement Notice and the Specific Invitation to prequalify or to bid, as described in paragraphs 2.7 and 2.8 of the Guidelines. General guidance on participation,⁴⁸ as well as advance information on business opportunities in upcoming projects, may be obtained from publications which can be obtained through subscription to the United Nations *Development Business* (UNDB), as well as from the Public Information Center.⁴⁹ Staff Appraisal Reports are also available from the Public Information Center upon approval of the loan.

Bidder's Role

6. Once a bidder receives the prequalification or bidding document, the bidder should study the documents carefully to decide if it can meet the technical, commercial, and contractual conditions, and if so, proceed to prepare its bid. The bidder should then critically review the documents to see if there is any ambiguity, omission, or internal contradiction, or any feature of specifications or other conditions which are unclear or appear discriminatory or restrictive; if so, it should seek clarification from the Borrower, in writing, within the time period specified in the bidding documents for seeking clarifications.

7. The criteria and methodology for selection of the successful bidder are outlined in the bidding documents, generally under Instructions to Bidders and Specifications. If these are not clear, clarification should be similarly sought from the Borrower.

⁴⁸ The *Guide to International Business Opportunities*.

⁴⁹ The UNDB address is listed in footnote 19. The Public Information Center address is the World Bank address at 1818 H Street, N.W., Washington, D.C., 20433, U.S.A.

8. In this connection it should be emphasized that the specific bidding documents issued by the Borrower govern each procurement, as stated in paragraph 1.1 of the Guidelines. If a bidder feels that any of the provisions in the documents are inconsistent with the Guidelines, it should also raise this with the Borrower.

9. It is the responsibility of the bidder to raise any issue of ambiguity, contradiction, omission, etc., prior to the submission of its bid, to assure submission of a fully responsive and compliant bid, including all the supporting documents requested in the bidding documents. Noncompliance with critical (technical and commercial) requirements will result in rejection of the bid. If a bidder wishes to propose deviations to a noncritical requirement, or propose an alternative solution, the bidder should quote the price for the fully compliant bid and then separately indicate the adjustment in price that can be offered if the deviation or alternative solution is accepted. Once bids are received and publicly opened, bidders will not be required or permitted to change the price or substance of a bid.

Confidentiality

10. As stated in paragraph 2.46, the process of bid evaluation shall be confidential until the award is notified. This is essential to enable the Borrower and Bank reviewers to avoid either the reality or perception of improper interference. If at this stage a bidder wishes to bring additional information to the notice of the Borrower, the Bank, or both, it should do so in writing.

Action by the Bank

11. Bidders are free to send copies of their communications on issues and questions with the Borrower to the Bank or to write to the Bank directly, when Borrowers do not respond promptly, or the communication is a complaint against the Borrower. All such communications should be addressed to the Chief of the Division for the relevant sector for the borrowing country, with a copy to the Regional Procurement Adviser.

12. References received by the Bank from potential bidders, prior to the closing date for submission of the bids, will, if appropriate, be referred to the Borrower with the Bank's comments and advice, for action or response.

13. Communication received from bidders after the opening of the bids, will be handled as follows. In the case of contracts not subject to prior review by the Bank, the communication will be sent to the Borrower for due consideration and appropriate action, if any, and these will be reviewed during subsequent supervision of the project by Bank staff. In the cases of contracts subject to the prior review process, the communication will be examined by the Bank, in consultation with the Borrower. If additional data is required to complete this process, these will be obtained from the Borrower. If additional information or clarification is required from the bidder, the Bank will ask the Borrower to obtain it and comment or incorporate it, as appropriate, in the evaluation report. The Bank's review will not be completed until the communication is fully examined and considered.

14. Except for acknowledgment, the Bank will not enter into discussion or correspondence with any bidder during the evaluation and review process of the procurement, until award of the contract is notified.

Debriefing

15. If, after notification of award, a bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Borrower. If the bidder is not satisfied with the explanation given and wishes to seek a meeting with the Bank, it may do so by addressing the Regional Procurement Adviser for the borrowing country, who will arrange a meeting at the appropriate level and with the relevant staff. In this discussion, only the bidder's bid can be discussed and not the bids of competitors.