

**The World Bank**

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

New Delhi Office  
70 Lodi Estate  
New Delhi – 110 003  
India

Telephone : 24617241/24619491  
Cable Address: INTBAFRAD  
Mailing Address : P.O Box 416  
Facsimile : 24619393

January 27, 2009

Authorized Representative  
Orissa Secretariat  
Government of Orissa  
Bhubaneswar  
Orissa, India

**Re: Loan No.7577-IN  
(Orissa State Roads Project)**

Dear Sir:

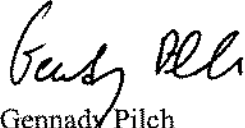
Enclosed are the following documents regarding above-mentioned Project, which are delivered to you as the authorized representative of Orissa:

1. one conformed copy of the Loan Agreement between India and the International Bank for Reconstruction and Development;
2. one signed original and one conformed copy of the Project Agreement between the International Bank for Reconstruction and Development and the State of Orissa;
3. one signed original and one conformed copy of the Supplemental Letter Re: PMI Letter from the State of Orissa;
4. one conformed copy of the Disbursement Letter;
5. one copy of the Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants, dated October 15, 2006;
6. one copy of the International Development Bank for Reconstruction and Development General Conditions for Loans, dated July 1, 2005 (as amended through February 12, 2008);
7. one copy of the Guidelines: Selection and Employment of Consultants by World Bank Borrowers published by the Bank in May 2004, and revised in October 2006; and
8. one copy of the Guidelines for Procurement under IBRD Loans and IDA Credits, published by the Bank in May 2004 and revised in October 2006.

Pursuant to Section 4.01 of the Loan Agreement, April 27, 2009 is the terminal date for effectiveness of the Loan Agreement and the Project Agreement.

Please confirm, on behalf of Orissa receipt of the documents listed above by signing the enclosed copy of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gennady Pilch". The signature is written in a cursive style with a large initial "G" and a stylized "P".

Gennady Pilch  
Senior Counsel  
Legal Vice Presidency

Enclosures

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LOAN NUMBER 7577-IN

# Loan Agreement

(Orissa State Roads Project)

between

INDIA

and

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

Dated *January 27*, 2009

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## LOAN AGREEMENT

AGREEMENT dated January 27, 2009, between INDIA, acting by its President ("Borrower") and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT ("Bank"). The Borrower and the Bank hereby agree as follows:

### ARTICLE I – GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in the Loan Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

### ARTICLE II – LOAN

- 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of two hundred fifty million Dollars (\$250,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.07 of this Agreement, ("Loan"), to assist in financing the project described in Schedule 1 to this Agreement ("Project").
- 2.02. The Borrower may withdraw the proceeds of the Loan in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Front-end Fee payable by the Borrower shall be equal to one quarter of one percent (0.25%) of the Loan amount.
- 2.04. The interest payable by the Borrower for each Interest Period shall be at a rate equal to LIBOR for the Loan Currency plus the Variable Spread; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the interest payable by the Borrower during the Conversion Period on such amount shall be determined in accordance with the relevant provisions of Article IV of the General Conditions. Notwithstanding the foregoing, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty (30) days, then the interest payable by the Borrower shall instead be calculated as provided in Section 3.02(d) of the General Conditions.
- 2.05. The Payment Dates are June 15 and December 15 in each year.
- 2.06. The principal amount of the Loan shall be repaid in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

- 2.07. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management: (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency; (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Variable Rate to a Fixed Rate, or vice versa; and (iii) the setting of limits on the Variable Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on the Variable Rate.
- (b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a "Conversion", as defined in the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.
- (c) Promptly following the Execution Date for an Interest Rate Cap or Interest Rate Collar for which the Borrower has requested that the premium be paid out of the proceeds of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amounts required to pay any premium payable in accordance with Section 4.05(c) of the General Conditions up to the amount allocated from time to time for the purpose in the table in Section IV of Schedule 2 to this Agreement.

#### **ARTICLE III – PROJECT**

- 3.01. The Borrower declares its commitment to the objectives of the Project. To this end, the Borrower shall cause the Project to be carried out by the Project Implementing Entity in accordance with the provisions of Article V of the General Conditions and the Project Agreement.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank shall otherwise agree, the Borrower shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

#### **ARTICLE IV – EFFECTIVENESS**

- 4.01. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

**ARTICLE V – REPRESENTATIVE; ADDRESSES**

5.01. The Borrower's Representative is any Secretary, Additional Secretary, Joint Secretary, Director, Deputy Secretary or Under Secretary of the Department of Economic Affairs in the Ministry of Finance of the Borrower.

5.02. The Borrower's Address is:

Department of Economic Affairs  
Ministry of Finance  
New Delhi 110 001  
India

Cable address:	Telex:	Facsimile:
ECOFAIRS New Delhi	953-31-66175 FINE IN	91-11-23093422

5.03. The Bank's Address is:

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423(MCI) or 64145(MCI)	1-202-477-6391

AGREED at New Delhi, India, as of the day and year first above written.

INDIA

By

*/s/ Dr. Alok Sheel*  
Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By

*/s/ Roberto Zagha*  
Authorized Representative

## SCHEDULE 1

### Project Description

The objective of the Project is to remove transport bottlenecks in targeted transport corridors of the State of Orissa for greater investment and economic and social development activities in the State of Orissa.

The Project consists of the following components:

#### **A. Road Corridor Improvement**

Widening, strengthening and selective realignment of about 461 km of existing roads in the State of Orissa to the double-lane standard, to be completed in two phases: (i) Phase I Roads, comprising about 204 km of total roads included in the Project; and (ii) Phase II Roads, comprising the remaining roads included in the Project; and implementation of ancillary social, health, resettlement and environmental measures.

#### **B. PPP Enabling, Sector Policy and Institutional Development and Implementation Support**

1. Strengthening the capacity of the Government of the State of Orissa to attract, on Public Private Partnership (PPP) basis, private sector participation in financing and management of selected high-traffic roads.
2. Modernization and institutional strengthening of the OWD, by, inter alia: (a) preparation of a modern road asset management system; (b) development and implementation of a strategy to modernize financial management system and record keeping, and introduction of e-procurement; (c) strengthening the OWD capacity in core business functions, including environment and social management, road safety, road asset management, and PPP transactions; (d) revision and update the PWD codes and manuals to improve contract management and procurement practices in OWD; and (e) training and capacity building of OWD staff.
3. Strengthening the policy, institutional and legal framework of the State of Orissa road sector through, inter alia: (a) improving operation and management structure for managing the Core Road Network; (b) developing sustainable road maintenance financing options; (c) establishment of a State road development council to coordinate the various State road agencies; (d) preparation of a road master plan, including revision/update and implementation of the State road network classification system; (e) development of the road safety policy action plan; and (f) development of axle load control policy and strategy.
4. Implementation and monitoring of the Project.



## SCHEDULE 2

### Project Execution

#### Section I. Institutional and Other Arrangements

1. To facilitate the carrying out of the Project, the Borrower shall make the proceeds of the Loan available to the Project Implementing Entity in accordance with Borrower's standard arrangements for developmental assistance to the States of India.
2. The Borrower shall cause the Project Implementing Entity to take all necessary steps to ensure that all Project activities are implemented in accordance with the Schedule to the Project Agreement.
3. The Borrower shall protect the interests of the Borrower and the Bank to accomplish the purposes of the Loan.

#### Section II. Project Monitoring, Reporting, Evaluation

##### A. Project Reports

The Borrower, together with the Project Implementing Entity, shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 of the General Conditions and on the basis of indicators agreed with the Bank. Each such report shall cover the period of each Fiscal Year quarter, and shall be furnished to the Bank not later than forty-five (45) days after the end of the period covered by such report.

##### B. Financial Management, Financial Reports and Audits

1. The Borrower shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 5.09(a) of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Borrower shall, or shall cause the Project Implementing Entity to, prepare and furnish to the Bank as part of the Project Report not later than forty-five (45) days after the end of each Fiscal Year quarter, interim un-audited financial reports for the Project covering the quarter, in form and substance satisfactory to the Bank.
3. The Borrower shall have its Financial Statements audited in accordance with the provisions of Section 5.09(b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) Fiscal Year of the Borrower, commencing with the Fiscal Year in which the first withdrawal under

the Project was made. The audited Financial Statements for each such period shall be furnished to the Bank not later than six (6) months after the end of such period.

**Section III. Procurement**

All goods, works and services required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Section III of the Schedule to the Project Agreement.

**Section IV. Withdrawal of Loan Proceeds**

**A. General**

1. The Borrower may withdraw the proceeds of the Loan in accordance with the provisions of this Section and such additional instructions as the Bank may specify by notice to the Borrower, to finance Eligible Expenditures as set forth in the table in paragraph 2 below.
2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Loan ("Category"), the allocations of the amounts of the Loan to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<b>Category</b>	<b>Amount of the Loan Allocated (Expressed in Dollars)</b>	<b>Percentage of Expenditures to be Financed</b>
(1) Civil works, goods, consultants' services, Training, R&R Assistance, and Incremental Operating Costs	246,375,000	80%
(2) Refund of the Project Preparation Advance	3,000,000	Amount payable pursuant to Section 2.07(a) of the General Conditions
(3) Front End Fee	625,000	Amount payable pursuant to Section 2.03 of this Agreement in accordance with Section 2.07(c) of the General Conditions

<b>Category</b>	<b>Amount of the Loan Allocated (Expressed in Dollars)</b>	<b>Percentage of Expenditures to be Financed</b>
(4) Premia for Interest Rate Cap and Interest Rate Collar	-0-	Amount payable pursuant to Section 2.07(c) of this Agreement in accordance with Section 4.05(c) of the General Conditions
<b>TOTAL</b>	<b>250,000,000</b>	

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount of \$10,000,000 equivalent may be made for payments prior to this date but on or after July 1, 2008, for Eligible Expenditures under Category (1).
2. The Closing Date is December 31, 2014.

### SCHEDULE 3

#### Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date ("Installment Share"). If the proceeds of the Loan have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by the Bank by multiplying: (a) Withdrawn Loan Balance as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayable amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<b>Principal Payment Date</b>	<b>Installment Share (Expressed as a Percentage)</b>
On each June 15 and December 15 Beginning June 15, 2014 through June 15, 2037	2.08%
On December 15, 2037	2.24%

2. If the proceeds of the Loan have not been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:
  - (a) To the extent that any proceeds of the Loan have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the Withdrawn Loan Balance as of such date in accordance with paragraph 1 of this Schedule.
  - (b) Any amount withdrawn after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by the Bank by multiplying the amount of each such withdrawal by a fraction, the numerator of which is the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date ("Original Installment Share") and the denominator of which is the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such amounts repayable to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. (a) Amounts of the Loan withdrawn within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.
  - (b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, if at any time the Bank adopts a due date billing system under which invoices are issued on or after the respective Principal Payment Date, the provisions of such sub-paragraph shall no longer apply to any withdrawals made after the adoption of such billing system.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the Withdrawn Loan Balance to an Approved Currency, the amount so converted in the Approved Currency that is repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by the Bank by multiplying such amount in its currency of denomination immediately prior to the Conversion by either: (i) the exchange rate that reflects the amounts of principal in the Approved Currency payable by the Bank under the Currency Hedge Transaction relating to the Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.
5. If the Withdrawn Loan Balance is denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

## APPENDIX

### Definitions

1. "Anti-Corruption Guidelines" means the "Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants", dated October 15, 2006.
2. "Category" means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
3. "Consultant Guidelines" means the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in May 2004, and revised in October 2006.
4. "Core Road Network" means the State of Orissa state highways and major district roads that have been designated as such by the Government of the State of Orissa, as the same may be amended from time to time.
5. "EMPs" means the corridor specific environmental management plans related to Phase I Roads, adopted by the OWD on August 30, 2007, and corridor specific environmental management plans related to Phase II Roads to be adopted by OWD, satisfactory to the Bank, setting forth the environmental management, mitigation, monitoring and institutional measures to be undertaken by the OWD during the Project, as such plans may be revised from time to time with the prior approval of the Bank.
6. "EMC" means the environmental management cell established within the PMU to manage and coordinate environmental aspects of road management, including project planning and preparation, supervision, monitoring, evaluation, reporting, documentation, training, and overall coordination with other State agencies.
7. "Financial Management Manual" means the financial management manual adopted by the OWD on December 11, 2008, satisfactory to the Bank, setting forth the overall Project financial management arrangements in respect of Project flow of funds, accounting policies and procedures, chart of accounts, financial and accounting procedures, books of accounts, financial reporting, and internal controls, as the same may be revised from time to time with the prior approval of the Bank.
8. "Fiscal Year" means the Borrower's and Project Implementing Entity's fiscal year, beginning on April 1 of any calendar year and ending on March 31 of the following calendar year.

9. "GAAP" means the Governance and Accountability Action Plan, adopted by the Government of Orissa on September 26, 2008, setting forth the key actions to be undertaken by the OWD, to strengthen governance, transparency, and accountability under the Project, as such plan may be revised from time to time with the prior approval of the Bank.
10. "General Conditions" means the "International Bank for Reconstruction and Development General Conditions for Loans", dated July 1, 2005 (as amended through February 12, 2008).
11. "HIV/AIDS Action Plans" means the plans included in the RAPs, setting forth the key policy and governmental actions required to address HIV/AIDS issues under the Project, as such plan may be revised from time to time with the prior approval of the Bank.
12. "Incremental Operating Costs" means incremental operating costs incurred by the OWD on account of Project implementation, management and monitoring, including salaries of non-civil service positions and consultancy costs, dissemination of Project related information, office rent and utilities, office and equipment insurance, maintenance and repair, vehicle maintenance and repair, travel, security, communication, bank charges, and other costs directly associated with the Project.
13. "ISAP" means the Institutional Strengthening Action Plan, adopted by Government of Orissa on June 9, 2008, setting forth the key policy and governmental actions required to modernize the OWD, and to improve the planning and financing framework for the road sector, as such plan may be revised from time to time with the prior approval of the Bank.
14. "ISAP Steering Committee" means the committee established by Government of Orissa on December 11, 2008, chaired by the Development Commissioner, and whose members include representatives of the concerned agencies and departments, or any successor or successors thereto.
15. "OWD" means the Works Department of the Government of Orissa, or any successor or successors thereto.
16. "Phase I Roads" and "Phase II Roads" mean the roads referred to under Component A of Schedule 1 to this Agreement.
17. "PMU" means the project management unit established within the OWD to assist in Project implementation, or any successor or successors thereto.

18. "PPP Cell" means the unit within the PMU responsible for management of PPP roads under Component B.1 of the Project, or any successor or successors thereto.
19. "Procurement Guidelines" means the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 2004, and revised in October 2006.
20. "Procurement Plan" means the Project Implementing Entity's procurement plan for the Project, dated July 9, 2008, and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as such plan shall be updated from time to time in accordance with the provisions of said paragraphs.
21. "Project Implementing Entity" means the State of Orissa.
22. "Project Preparation Advance" means the Project preparation advance granted by the Bank to the Borrower pursuant to the letter agreement signed on behalf of the Bank on March 8, 2006, and on behalf of the Borrower on March 30, 2006.
23. "RAPs" means the Resettlement Action Plans for Phase I Roads adopted by the OWD on November 6, 2007, and the Resettlement Action Plans for Phase II Roads to be adopted by the OWD, which include the HIV/AIDS Plans, and are satisfactory to the Bank, and which set forth resettlement, social, land acquisition, and tribal communities rehabilitation and assistance actions to be undertaken by the OWD under the Project, as such plans may be revised from time to time with the prior approval of the Bank.
24. "R&R Assistance" means resettlement and rehabilitation assistance provided by the OWD to eligible recipients in accordance with the terms and conditions set forth in the R&R Framework and the RAPs.
25. "R&R Framework" means the resettlement and rehabilitation policies and procedures adopted by the Government of the State of Orissa on March 1, 2007, addressing adverse temporary or permanent social impacts resulting, or likely to result, from the carrying out of the Project, and based on the Resettlement and Rehabilitation Policy adopted by the Government of Orissa in April 2006, as the same may be revised from time to time with the prior approval of the Bank.
26. "SMC" means the social management cell established within the PMU to manage and coordinate social impact, land acquisition, resettlement, and indigenous (tribal) people issues under the Project.
27. "State Level Empowered Committee" means the committee established by Government of Orissa and chaired by the Development Commissioner of the



Project Implementing Entity, and whose members include the Engineer-in-Chief-cum-Secretary of Works, Secretary Finance, Secretary Forest, Secretary Revenue, Chief Engineer (Roads), and Chief Engineer (World Bank Projects), or any successor or successors thereto.

28. "State of Orissa" means the State of Orissa of the Borrower.
29. "Training" means reasonable and necessary costs of training related to Project implementation, including the fees of educational or other institutions that provide training, costs related to attendance or organization of conferences, seminars and workshops, and the trainees' cost of travel, boarding, lodging and per diem allowances.



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LOAN NUMBER 7577-IN

# Project Agreement

(Orissa State Roads Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

STATE OF ORISSA

Dated *January 27*, 2009

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## PROJECT AGREEMENT

AGREEMENT dated *January 27*, 200<sup>9</sup>, entered into between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT ("Bank") and STATE OF ORISSA ("Project Implementing Entity") ("Project Agreement") in connection with the Loan Agreement of same date between India ("Borrower") and the Bank ("Loan Agreement"). The Bank and the Project Implementing Entity hereby agree as follows:

### ARTICLE I – GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to the Loan Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in the Project Agreement have the meanings ascribed to them in the Loan Agreement or the General Conditions.

### ARTICLE II – PROJECT

- 2.01. The Project Implementing Entity declares its commitment to the objectives of the Project. To this end, the Project Implementing Entity shall:
  - (a) carry out the Project through the OWD in accordance with the provisions of Article V of the General Conditions; and
  - (b) provide promptly as needed, the funds, facilities, services and other resources required for the Project.
- 2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Bank and the Project Implementing Entity shall otherwise agree, the Project Implementing Entity shall carry out the Project in accordance with the provisions of the Schedule to this Agreement.

### ARTICLE III – REPRESENTATIVE; ADDRESSES

- 3.01. The Project Implementing Entity's Representative is the Engineer-in-Chief-cum-Secretary, Works Department, Government of Orissa.

3.02. The Bank's address is:

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423(MCI) or 64145(MCI)	1-202-477-6391

3.03. The Project Implementing Entity's address is:


Orissa Secretariat  
Government of Orissa  
Bhubaneswar  
Orissa  
India

Facsimile:  
91-674-239-16-51

AGREED at New Delhi, India, as of the day and year first above written.

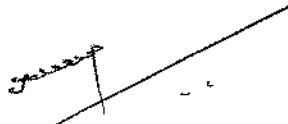
INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

By

  
Authorized Representative

STATE OF ORISSA

By

  
Authorized Representative

## SCHEDULE

### Execution of the Project

#### Section I. Institutional Arrangements and Project Undertakings

Throughout Project implementation or as specified below, the Project Implementing Entity shall:

- A. maintain the State Level Empowered Committee, and ensure that the State Level Empowered Committee provides the overall direction and governance authority for the Project, and has the composition and powers sufficient to fulfill its functions under the Project;
- B. maintain the ISAP Steering Committee, and ensure that the ISAP Steering Committee is responsible for the implementation of the ISAP, and has the composition and powers sufficient to fulfill its functions under the Project;
- C. maintain the PMU, EMC, SMC and PPP Cell and ensure that the PMU, EMC, SMC and PPP Cell, and the OWD field offices have officials, staff and resources required under the Project;
- D. ensure that the EMP and the RAP for Phase II Roads are prepared and adopted by the OWD in a timely manner, and are consistent and comply with the R&R Framework;
- E. ensure that the Project is carried out in accordance with the terms, conditions and procedures set forth in the ISAP, EMPs, R&R Framework, RAPs, HIV/AIDS Action Plan, Financial Management Manual, Anti-Corruption Guidelines and GAAP; and that the ISAP, EMPs R&R Framework, RAPs, HIV/AIDS Action Plan, Financial Management Manual and GAAP are not revised, amended, or abrogated without the prior approval of the Bank;
- F. ensure that the OWD carries out a traffic census and a vehicle speed survey on the Core Road Network every two years, with content and in a format satisfactory to the Bank, and publishes the results on the OWD website, with the first report due by March 31, 2010;
- G. ensure that the OWD carries out an annual roads condition survey of the Core Road Network, and provides a copy of the survey report to the Bank by March 31, with the first report due by March 31, 2010;
- H. carry out, with respect to the Project roads: (a) three user satisfaction and land use surveys, and produce reports for each survey, with the first (baseline) survey to be carried out and the report to be produced no later than June 30, 2009, the

second survey to be carried out and the report to be produced no later than June 30, 2011, and the third survey to be carried out and the report to be produced no later than June 30, 2013; (b) one value engineering and quality review to be carried out and the report to be produced no later than June 30, 2010;

- I. by December 31, 2008, designate the most important State roads as Core Road Network, ensure earmarking of funds for such Core Road Network in the 2009-10 State of Orissa budget, and assign a separate Chief Engineer for managing the Core Road Network;
- J. by December 31, 2010, carry out the road sector institutional development study in accordance with terms of reference satisfactory to the Bank;
- K. by December 31, 2011, adopt a road sector policy taking into account the recommendations of the road sector institutional development study;
- L. by December 31, 2012, prepare a comprehensive road master plan covering roads under the OWD management, and revise and update the road reclassification system, taking into account the recommendations of the road sector institutional development study; and
- M. by June 30, 2013, adopt operation and management arrangements, including toll management arrangements, where appropriate, for the completed Project roads, taking into account the recommendations of the road sector institutional development study.

**Section II. Project Monitoring, Reporting and Evaluation**

**A. Project Reports**

- 1. The Project Implementing Entity shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08(b) of the General Conditions and on the basis of indicators agreed with the Bank. Each such report shall cover the period of one Fiscal Year quarter, and shall be furnished to the Borrower and the Bank not later than forty-five (45) days after the end of the period covered by such report.
- 2. Notwithstanding the requirement in Section II.A.1 of this Schedule, within 24 months of Loan Agreement effectiveness, the Project Implementing Entity shall carry out a comprehensive mid-term Project review, and shall by December 31, 2010, prepare and furnish to the Bank a mid-term Project progress report, satisfactory to the Bank.

3. The Project Implementing Entity shall provide to the Borrower not later than five (5) months after the Closing Date, for incorporation in the report referred to in Section 5.08(c) of the General Conditions, all such information as the Borrower or the Bank shall reasonably request for the purposes of that Section.

**B. Financial Management, Financial Reports; Audits**

1. The Project Implementing Entity shall maintain a financial management system and prepare financial statements related to the Project in accordance with consistently applied accounting standards acceptable to the Bank, both in a manner adequate to reflect the operations and financial condition of the Project Implementing Entity, including the operations, resources and expenditures related to the Project.
2. Without limitation on the provisions of Part A of this Section, the Project Implementing Entity shall prepare and furnish to the Bank as part of the Project Report not later than forty-five (45) days after the end of each Fiscal Year quarter, interim un-audited financial reports for the Project covering the quarter, in form and substance satisfactory to the Bank.
3. The Project Implementing Entity shall have the financial statements referred to above audited by auditors acceptable to the Bank, in accordance with consistently applied auditing standards acceptable to the Bank. Each audit of these financial statements shall cover the period of one Fiscal Year. The audited financial statements for each period shall be furnished to the Borrower and the Bank not later than six (6) months after the end of the period.

**Section III. Procurement**

**A. General**

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Schedule.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines and with the provisions of this Schedule.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Bank of particular contracts refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.



**B. Particular Methods of Procurement of Goods and Works**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding procedures.
2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>	
(a)	National Competitive Bidding, and the additional provisions agreed between the Borrower and the Bank
(b)	Shopping
(c)	Direct Contracting

**C. Particular Methods of Procurement of Consultants' Services**

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.
2. **Other Methods of Procurement of Consultants' Services.** The following table specifies the methods of procurement, other than Quality- and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>	
(a)	Selection under a Fixed Budget
(b)	Least Cost Selection
(c)	Selection based on Consultants' Qualifications
(d)	Single-source Selection
(e)	Procedures set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines for the Selection of Individual Consultants
(f)	Sole Source Procedures for the Selection of Individual Consultants

**D. Review by the Bank of Procurement Decisions**

The Procurement Plan shall set forth those contracts which shall be subject to the Bank's Prior Review. All other contracts shall be subject to Post Review by the Bank.

**STATE OF ORISSA**

January 27, 2009

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

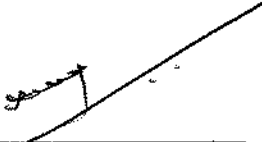
INDIA:      Loan No.7577-IN  
              (Orissa State Roads Project)  
              Performance Monitoring Indicators

Dear Sirs and Mesdames:

We refer to Section II.A of Schedule to the Project Agreement of even date between International Bank for Reconstruction and Development and State of Orissa for the Orissa State Roads Project.

Unless agreed otherwise with the Bank, the State of Orissa shall monitor and evaluate implementation of the Project in accordance with the Performance Monitoring Indicators attached to this letter.

Very truly yours,  
STATE OF ORISSA

By  \_\_\_\_\_  
Authorized Representative

Attachment

## Performance Monitoring Indicators

### Results Framework

PDO	Project Outcome Indicators	Use of Project Outcome Information
1. Remove transport bottlenecks in priority transport corridors for greater investment and economic and social development activities.	<p>1.1 vehicle operating costs (at 2006 constant input prices) in project corridors reduced as follows: Cars/LMV: From 4.3 to 3.6 Rs/veh-KM (15%) Trucks: From 10.2 to 8.8 Rs/veh-KM (14%) Buses: From 8.7 to 7.1 Rs/veh-KM (18%)</p> <p>1.2 vehicle speed in project corridors increased as follows: Cars/LMV: 45 to 60 KMPH (33%) Trucks: From 35 to 45 KMPH (29%) Buses: From 40 to 55 KMPH (38%)</p> <p>1.3 favorable response by firms about the condition of road corridors improved under the project</p> <p>1.4 OWD efficiency and transparency improved: (i) Operation and Maintenance arrangement for the Core Road Network put in place; (ii) core business functions fully operational; and (iii) OWD meets RTI disclosure requirements and implements the GAAP</p>	To assess the project's contribution to improve the state's investment climate
Intermediate Outcomes	Intermediate Outcome Indicators	Use of Intermediate Outcome Monitoring
1 Three priority road corridors improved in socially and environmentally sustainable way	<p>1.1 461 km of state highways widened and upgraded efficiently</p> <p>1.2 Environmental management plans effectively implemented</p> <p>1.3 Social safeguard measures (R&amp;R, TDP, HIV/AIDS Mitigation, and Road Safety Awareness program) effectively implemented in project corridors</p>	To assess the performance of the project and to redirect it, if necessary, to achieve the PDO
2. PPP in the Road Sector Introduced	2.1 One road identified for PPP is concessioned out to the private sector	To assess the performance of the project and to redirect it, if necessary, to achieve the PDO
3 OWD Core Business Units/Cells Fully Functional	<p>3.1 Road Asset Management, PPP Transactions, Road Safety and Environment and Social Management operational and execute annual business programs, and IT/ICT/MIS operational</p> <p>3.2 Milestones in GAAP and ISAP met</p>	
4 Conducive road sector policy put in place to govern the management, financing and safety of the road network	<p>4.1 Improved policy and legislative framework in place</p> <p>4.2 Sustainable road maintenance financing options studied and suitably implemented</p> <p>4.3 Road Safety Action Plan established and being implemented</p>	

## Arrangements for Results Monitoring

Outcome Indicators	Actual Value Baseline (2006)	Target Values					Data Collection and Reporting		
		YR1	YR2	YR3	YR4	YR5	Frequency and Reports	Data Collection Instruments	Responsibility for Data Collection
1.1 vehicle operating costs in project corridors reduced by 15%	Cars Trucks Buses	4.29 10.22 8.70		15% 3.62 8.77 7.10		15% 3.62 8.77 7.10	Bi-Annual High Priority Network Condition Reports	RAMS	OWD/PMU
1.2 vehicle speed in project corridors increased from by 36%	Cars Trucks Buses	45 35 40		36% 60 km/hr 45 55		36% 60 km/hr 45 55	Bi-Annual High Priority Network Traffic Reports	RAMS	OWD/PMU
1.3 favorable response by firms about the condition of road corridors improved under the project	To be undertaken YRI			To be undertaken		To be undertaken	Baseline survey, MTR and EOP user satisfaction surveys	Survey	Independent Consultant
1.4 OWD efficiency and transparency improved: (i) Operation and Maintenance arrangement for the Core Road Network put in place; (ii) core business functions fully operational; and (iii) OWD meets RTI disclosure requirements and implements the GAAP.	To be undertaken YRI			To be undertaken		To be undertaken	User Satisfaction Surveys – every two years	Survey	OWD
<b>Results Indicators for Each Component</b>									
<b>Component 1 (Road I Corridor improvement Component)</b>									
1.1 461 km of state highways widened and upgraded efficiently	0%			204 km		461 km	Semi-annual progress report, Monthly reports, quarterly FMRS	In-house reporting, certification of quantities by CSC	OWD/PMU/CSC
1.2 Environmental management plans effectively implemented	0%			100% for Phase I		100% for Phase II	EOP report	In-house reporting	OWD/PMU
1.3 Social safeguard measures (R&R, TDP, HIV/AIDS Mitigation, and Road Safety	0%			100% for Phase I		100% for Phase II	MTR and EOP report	Independent impact assessment	Independent Consultant

Awareness program) effectively implemented in project corridors	Target Values						Data Collection and Reporting		
	Actual Value	YR1	YR2	YR3	YR4	YR5	Frequency and Reports	Data Collection Instruments	Responsibility for Data Collection
	Baseline								
<b>Component 2 (PPP Enabling, OWD Modernization, and Policy and Institutional Framework)</b>									
2.1 One road identified for PPP is concessioned out to the private sector	Nil			1		1	Annual progress report	In-house reporting	OWD/PMU
3.1 Road Asset Management, PPP Transactions, Road Safety and Environment and Social Management operational and IT/ICT/MIS operational	Nil	RAMS/PPP Operational	ES operational	Road Safety Cell operational	IT/ICT/MIS 50 rollout	IT/ICT/MIS 100% rollout	Semi-annual progress report	In-house reporting	OWD/PMU
3.2 Milestones in GAAP and ISAP met	Nil		20%	60%	80%	100%	Study report and final report	In-house reporting	OWD/PMU
4.1 Improved Road Policy and Legislative Framework put in place	Nil			Study completed		Policy and Legal Framework approved by GOO	Study report and final report	In-house reporting	OWD/PMU
4.2 Sustainable road maintenance financing options studied and suitably implemented	Nil			Study Completed		Road Maintenance Financing Option suitably implemented	Annual report	In-house reporting	OWD/PMU
4.3 Road Safety Action Plan put in place	Nil			Study completed		New Safety Policy approved; institutional arrangement put in place, and Action Plan Implementation started	Study report and final report	In-house reporting	OWD/PMU

**The World Bank**

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

New Delhi Office  
70 Lodi Estate  
New Delhi - 110 003  
India

Telephone: 24617241/24619491  
Cable Address: INTBAFRAD  
Mailing Address: P.O. Box 416  
Facsimile: 24619393

January 27, 2009

Mr. Shankar Banerjee  
Controller of Aid Accounts and Audit  
Department of Economic Affairs  
Ministry of Finance  
5<sup>th</sup> Floor, 'B' Wing  
Janpath Bhawan, Janpath  
New Delhi 110 001  
India

**Re: IBRD Loan No.7577-IN  
(Orissa State Roads Project)  
Additional Instructions: Disbursement**

Dear Mr. Banerjee:

I refer to the Loan Agreement between India (the "Borrower") and the International Bank for Reconstruction and Development (the "Bank") for the above-referenced Project, dated January 27, 2009. The Agreement provides that the Bank may issue additional instructions regarding the withdrawal of the proceeds of Loan No.7577-IN ("Loan"). This letter ("Disbursement Letter"), as revised from time to time, constitutes the additional instructions.

The attached World Bank Disbursement Guidelines for Projects, dated May 1, 2006, ("Disbursement Guidelines") (Attachment 1), are an integral part of the Disbursement Letter. The manner in which the provisions in the Disbursement Guidelines apply to the Loan is specified below. Sections and subsections in parentheses below refer to the relevant sections and subsections in the Disbursement Guidelines and, unless otherwise defined in this letter, the capitalized terms used have the meanings ascribed to them in the Disbursement Guidelines.

**I. Disbursement Arrangements**

(i) **Disbursement Methods (section 2).** The following Disbursement Methods may be used under the Loan:

- Reimbursement
- Advance

(ii) **Disbursement Deadline Date (subsection 3.6).** The Disbursement Deadline Date is 4 months after the Closing Date specified in the Loan Agreement. Any changes to this date will be notified by the Bank.

## II. Withdrawal of Loan Proceeds

(i) **Authorized Signatures (subsection 3.1).** The Bank has received letter no. AAAD/Disb.II/Misc./IBRD/2006 dated April 19, 2006 from the Controller of Aid Accounts & Audit, Ministry of Finance, Department of Economic Affairs, Government of India attaching the specimen signature of the list of signatories authorized to sign withdrawal applications for Global Fund assisted Projects from Round II onwards. Whenever changes are necessary, a letter in the Form attached (Attachment 2) should be furnished to the Bank at the address indicated below providing the name(s) and specimen signature(s) of the official(s) authorized to sign Applications:

The World Bank  
P.O. Box 416  
New Delhi 110 001, India  
Attention: India Country Director

(ii) **Applications (subsections 3.2 - 3.3).** Please provide completed and signed applications for withdrawal together with supporting documents, to the address indicated below:

The World Bank  
No. 11, Taramani Main Road  
Taramani, Chennai – 600 113  
India  
Attention: Ms. Samvita R. Aritkatla, Finance Officer

(iii) **Advance (sections 5 and 6)**

- **Type of Designated Account (subsection 5.3):** Segregated.
- **Currency of Designated Account (subsection 5.4):** U.S. Dollars.
- **Financial Institution at which the Designated Account Will Be Opened (subsection 5.5):** Reserve Bank of India, Mumbai, India.
- **Ceiling (subsection 6.1):** forecast for 2 quarters as provided in the quarterly Interim Financial Report.

## III. Reporting on Use of Loan Proceeds

(i) **Supporting Documentation (section 4).** Supporting documentation should be provided with each Application for Withdrawal as set out below:

- **For requests for reimbursement:**
  - Interim Un-audited Financial Report in the form attached (Attachment 3); and
  - List of payments against contracts that are subject to the Bank's prior review in the form attached (Attachment 4).
- **For reporting eligible expenditures paid from the Designated Account:**
  - Interim Un-audited Financial Report in the form attached (Attachment 3); and



- o List of payments against contracts that are subject to the Bank's prior review in the form attached (Attachment 4).

(ii) *Frequency of Reporting Eligible Expenditures Paid from the Designated Account (subsection 6.3):* quarterly.

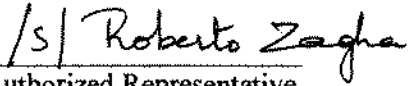
#### IV. Other Important Information

For additional information on disbursement arrangements, please refer to the Disbursement Handbook available on the Bank's public website at <http://www.worldbank.org> and its secure website "Client Connection" at <http://clientconnection.worldbank.org>. Print copies are available upon request.

If you have not already done so, the Bank recommends that you register as a user of the Client Connection website (<https://clientconnection.worldbank.org>). From this website you will be able to download Applications, monitor the near real-time status of the Loan, and retrieve related policy, financial, and procurement information. For more information about the website and registration arrangements, please contact the Bank by email at [clientconnection@worldbank.org](mailto:clientconnection@worldbank.org).

If you have any queries in relation to the above, please contact Ms. Thao L. Nguyen, senior finance officer at [tlnguyen@worldbank.org](mailto:tlnguyen@worldbank.org) or another member of the Loan Department team in Chennai at [loadm-chennai@worldbank.org](mailto:loadm-chennai@worldbank.org) using the above reference.

Yours sincerely,

  
Authorized Representative  
South Asia Region

#### Attachments

1. *World Bank Disbursement Guidelines for Projects*, dated May 1, 2006.
2. Form for Authorized Signatures
3. Form of Un-audited Interim Financial Report
4. Form of Payments Against Contracts Subject to the Bank's Prior Review

cc with copies: Er. Jayamangal Nayak, Chief Engineer  
Project Management Unit  
Orissa State Roads Project  
Works Department, Government of Orissa  
Nirman Soudh, Unit-V, Bhubaneswar - 751001  
State of Orissa, India  
Fax no.: 0674 2391476  
Office phone no.: 0674 2396783  
Home phone no.: 0674 2570973  
Email address: [piuosrp@gmail.com](mailto:piuosrp@gmail.com)





THE WORLD BANK

The Loan Department  
World Bank

1818 H Street, N.W.

Washington, D.C. 20036

Email: [wbdisbursement@worldbank.org](mailto:wbdisbursement@worldbank.org)



THE WORLD BANK

# DISBURSEMENT GUIDELINES FOR PROJECTS

MAY 2006

**WORLD BANK**

**DISBURSEMENT GUIDELINES  
FOR PROJECTS**



**LOAN DEPARTMENT**  
May 1, 2006

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**THE WORLD BANK**  
1818 H Street, N.W.  
Washington, D.C. 20433, U.S.A.

First Printing: July 2006

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# World Bank Disbursement Guidelines for Projects

May 1, 2006

## 1. Purpose

1.1 The purpose of these Guidelines is to set out the Bank's procedures for disbursement of loan proceeds for projects.<sup>1</sup> Specifically, the Guidelines explain (a) the different methods used by the Bank to disburse loan proceeds, (b) the requirements for withdrawal from the Loan Account, (c) the types of supporting documentation that the borrower may be required to provide to demonstrate the use of loan proceeds for eligible expenditures, (d) the criteria for establishing designated accounts, (e) the terms and conditions applicable to advances, (f) the types of actions that the Bank may take if it determines that loan proceeds are not needed or have been used for ineligible purposes, and (g) the consequence of refunds.

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<sup>1</sup> "Bank" includes IBRD and IDA; "loan" includes credit and grant; "borrower" includes the borrower of an IBRD loan, IDA credit, or Project Preparation Facility advance and the recipient of a grant; and "Loan Agreement" includes the agreement with the Bank providing for a credit, grant, or advance. These Disbursement Guidelines apply to all loans, credits, advances under the Project Preparation Facility, and grants financed under the Institutional Development Fund and Global Environment Facility unless otherwise provided in Operational Policy 10.20, *Global Environment Facility Operations* (forthcoming). These Guidelines also apply to other recipient-executed grants financed from trust funds unless, exceptionally, the terms of the agreement with the donor make provision for different requirements. They do not apply to Development Policy loans.

## 2. Disbursement Methods

2.1 The Bank establishes disbursement arrangements for an operation in consultation with the borrower and taking into consideration, *inter alia*, an assessment of the borrower's financial management and procurement arrangements, the procurement plan and cash flow needs of the operation, and its disbursement experience with the borrower.

2.2 The Bank disburses proceeds from the Loan Account established for each loan, to or on the order of the borrower, using one or more of the disbursement methods set forth below, as determined by the Bank.

(a) **Reimbursement.** The Bank may reimburse the borrower for expenditures eligible for financing pursuant to the Loan Agreement ("eligible expenditures") that the borrower has prefunded from its own resources.

(b) **Advance.** The Bank may advance loan proceeds into a designated account of the borrower to finance eligible expenditures as they are incurred and for which supporting documents will be provided at a later date (see section 5, "Designated Accounts").

(c) **Direct Payment.** The Bank may make payments, at the borrower's request, directly to a third party (e.g., supplier, contractor, consultant) for eligible expenditures.

(d) **Special Commitment.** The Bank may pay amounts to a third party for eligible expenditures under special commitments entered into, in writing, at the borrower's request and on terms and conditions agreed between the Bank and the borrower.

## 3. Withdrawal of Loan Proceeds

3.1 **Authorized Signatures.** Before loan proceeds may be withdrawn or committed from the Loan Account, the au-

thorized representative of the borrower (as designated in the Loan Agreement) must furnish to the Bank (a) the name(s) of the official(s) authorized to sign applications for withdrawal and applications for a special commitment (collectively, "Applications"), and (b) the authenticated specimen signature(s) of the official(s). The borrower must indicate clearly if more than one signature is required on Applications and must notify the Bank promptly of any changes in signature authority.

3.2 **Applications.** Applications must be provided to the Bank in such form and include such information as the Bank may reasonably request. Application forms are available online from the Client Connection Web site at <http://clientconnection.worldbank.org> or from the Bank upon request.

3.3 For withdrawal from the Loan Account for advances, the borrower should provide an original signed application for withdrawal. For withdrawal from the Loan Account for reimbursements and direct payments and for reporting on the use of advances, the borrower should provide an original signed application for withdrawal together with one copy of supporting documents (see section 4, "Supporting Documentation Requirements"). For a special commitment from the Loan Account, the borrower should provide an original signed application for a special commitment together with one copy of the letter of credit. The Bank reserves the right not to accept or review duplicate copies of Applications and supporting documents and may at its discretion return or destroy the duplicates.

3.4 **Electronic Delivery.** The Bank may authorize the borrower to use electronic means, in a manner and on terms and conditions specified by the Bank, to deliver Applications and supporting documentation to the Bank. Applications and supporting documentation delivered in accordance with this subsection will be deemed to have been provided to the Bank for the purposes of satisfying the requirements of subsections 3.2 and 3.3 of these Guidelines.



**3.5 Minimum Value of Applications.** The Bank establishes a minimum value for Applications for reimbursement, direct payment, and special commitment. The Bank reserves the right not to accept Applications that are below such minimum value.

**3.6 Loan Disbursing Period.** The Bank processes Applications only after the Loan Agreement has been declared effective in accordance with the terms of the Loan Agreement. The expenditures for which the Applications are made must be:

- (a) *paid* for (i) on or after the date of the Loan Agreement, or (ii) in the case of operations that permit retroactive financing, on or after the earlier date specified in the Loan Agreement for that purpose; and
- (b) *incurred* on or before the closing date specified or referred to in the Loan Agreement ("Closing Date"), except as otherwise specifically agreed with the Bank.

**3.7** The loan disbursing period ends on the final date established by the Bank for receipt by the Bank of applications for withdrawal and supporting documentation (the "Disbursement Deadline Date"). The Disbursement Deadline Date may be the same as the Closing Date, or up to four months after the Closing Date. Normally, to support orderly project completion and closure of the Loan Account, the Bank does not accept applications for withdrawal or supporting documentation received after the Disbursement Deadline Date. The borrower should promptly inform the Bank of any expected implementation delays or exceptional administrative issues before these dates. The Bank notifies the borrower of any exception that the Bank may make to the Disbursement Deadline Date.

**3.8 Disbursement Conditions.** If the Loan Agreement contains a disbursement condition for a specific expenditure category, the Bank will disburse loan proceeds for that category only after the disbursement condition has been fulfilled and the Bank has notified the borrower to this effect.

#### 4. Supporting Documentation Requirements

**4.1** The borrower provides supporting documentation to the Bank to show that loan proceeds have been or are being used to finance eligible expenditures.

**4.2** For special commitments, the commercial bank provides its confirmation directly to the Bank that conditions for release of payments committed for withdrawal have been met.

**4.3 Types of Supporting Documentation.** The Bank requires either copies of the original documents evidencing eligible expenditures ("Records") or summary reports of expenditure ("Summary Reports") in such form and substance as the Bank may specify. Records include such documents as invoices and receipts. A Summary Report may be either (a) the interim un-audited financial report required under the Loan Agreement ("Interim Financial Report") or (b) a statement of expenditure summarizing eligible expenditures paid during a stated period ("Statement of Expenditure"). In all cases, the borrower is responsible for retaining the original documents evidencing eligible expenditures and making them available for audit or inspection.

**4.4** The Bank determines the types of supporting documentation that the borrower should provide, taking into consideration the disbursement method used. The supporting documentation may be the following:

- (a) *For applications for reimbursement:* (i) Interim Financial Reports, (ii) Statements of Expenditure, (iii) Records, or (iv) Records required by the Bank for specific expenditures and Statements of Expenditure for all other expenditures;
- (b) *For reporting on the use of advances:* (i) Interim Financial Reports, (ii) Statements of Expenditure, (iii) Records, or (iv) Records required by the Bank for specific expenditures and Statements of Expenditure for all other expenditures;





- (c) *For applications for direct payments:* Records; and
- (d) Any other supporting documentation that the Bank may request by notice to the borrower.

**4.5 Failure to Provide Audited Financial Statements.** If the borrower fails to provide any of the audited Financial Statements required in accordance with, and within the period of time specified in, the Loan Agreement, the Bank may at its discretion decide not to accept applications for withdrawal supported by Summary Reports, even if such reports are accompanied by Records.

**5. Designated Accounts**

5.1 The borrower may open one or more designated accounts into which the Bank may, at the borrower's request, deposit amounts withdrawn from the Loan Account for the purpose of paying for eligible expenditures as they are incurred ("Designated Account"). Before the Bank authorizes establishment of a Designated Account, the borrower must have adequate administrative capability, internal controls, and accounting and auditing procedures to ensure effective use of the Designated Account.

5.2 The Bank may decide not to permit the use of Designated Accounts in new projects if the borrower has failed to refund undocmented advances in the Designated Account of any other loan to, or guaranteed by, the borrower within two months after the Disbursement Deadline Date for such loan.

5.3 *Type of Designated Account.* A Designated Account may be established in one of the two ways set out below, as appropriate for the operation concerned, as determined and notified by the Bank.

- (a) *Segregated Account:* this is an account of the borrower into which only proceeds of the loan may be deposited; or
- (b) *Pooled Account:* this is an account of the borrower into which the loan proceeds and proceeds of other financing for the operation (e.g., borrower resources and/or financing by other development partners) may be deposited.

**5.4 Currency of the Designated Account.** Designated Accounts must be in a currency acceptable to the Bank. In countries that have a freely convertible currency, Designated Accounts may be held in the currency of the borrower or any freely convertible currency. The Bank may also agree to local currency Designated Accounts when, *inter alia*, the country's currency (even if not freely convertible) is stable and the expenditures to be financed are primarily in local currency. The borrower bears all risks associated with foreign exchange fluctuations between (a) the currency of denomination of the loan and that of the borrower's Designated Account, and (b) the currency of denomination of the borrower's Designated Account and the currency or currencies of project expenditures.

**5.5 Financial Institution.** Designated Accounts must be opened and maintained in a financial institution acceptable to the Bank on terms and conditions acceptable to the Bank. To be acceptable to the Bank, the financial institution proposed by the borrower should generally meet all the following requirements:

- (a) be financially sound;
- (b) be authorized to maintain the Designated Account in the currency agreed between the Bank and the borrower;
- (c) be audited regularly, and receive satisfactory audit reports;

- (d) be able to execute a large number of transactions promptly;
- (e) be able to perform a wide range of banking services satisfactorily;
- (f) be able to provide a detailed statement of the Designated Account;
- (g) be part of a satisfactory correspondent banking network; and
- (h) charge reasonable fees for its services.

5.6 The Bank reserves the right not to accept a financial institution for the opening and/or maintenance of a Designated Account if such institution has asserted or asserts a claim to set off, seize, or attach the proceeds of any Bank loan on deposit in a Designated Account maintained by it.

## 6. Terms and Conditions Applicable to Advances

6.1 *Ceiling.* The Bank notifies the borrower of the maximum amount of loan proceeds that may be on deposit in a Designated Account (the "Ceiling"). The Bank, at its discretion, may establish the Ceiling as either (a) a fixed amount, or (b) an amount that is adjusted from time to time during project implementation based on periodic forecasts of project cash flow needs.

6.2 *Applications for Advances.* The borrower may apply for an advance in an amount up to the Ceiling less the aggregate amount of those advances previously received by the borrower for which the borrower has not yet provided supporting documentation. Normally, to support orderly closure of the Loan Account, the Bank does not advance loan proceeds into the Designated Account after the Closing Date.

6.3 *Frequency of Reporting Eligible Expenditures Paid from the Designated Account.* The borrower reports on the use of loan proceeds advanced to the Designated Account

at intervals specified by the Bank by notice to the borrower ("Reporting Period"). The borrower should ensure that all amounts deposited in the Designated Account are accounted for and their use reported prior to the Disbursement Deadline Date. After this date, the borrower must refund to the Bank any advances still unaccounted for or remaining in the Designated Account.

6.4 *Withholding Advances.* The Bank is not required to make any deposit into the Designated Account if:

- (a) The Bank determines that payment of the deposit would result in exceeding the Ceiling (see subsection 6.2, "Applications for Advances");
- (b) The Bank is not satisfied that the borrower's planned project expenditures justify the deposit. The Bank may, by notice to the borrower, adjust the amount it deposits or withhold further deposits into the Designated Account until it is satisfied that the financial needs of the project warrant further deposits;
- (c) The borrower fails to take the action required pursuant to the determinations made by the Bank under subsections 7.1 and 7.2 of these Guidelines;
- (d) The borrower fails to provide any of the audited Financial Statements required in accordance with, and within the period of time specified in, the Loan Agreement;
- (e) The Bank determines that all further withdrawals of loan proceeds should be made by the borrower directly from the Loan Account; or
- (f) The Bank has notified the borrower of its intention to suspend in whole or in part the borrower's right to make withdrawals from the Loan Account.

6.5 *Excess Advances.* If at any time the Bank determines that any amount deposited in the Designated Account will not be required to cover further payments for eligible expenditures ("Excess Amount"), it may, at its discretion, require the borrower to take one of the two actions listed below. Upon

notification by the Bank, the borrower must promptly take the action requested:

- (a) Provide evidence satisfactory to the Bank within a period specified by the Bank that the Excess Amount will be used to pay for eligible expenditures. If the evidence is not furnished within the time period specified, the borrower must promptly refund the Excess Amount to the Bank; or
- (b) Refund the Excess Amount promptly.

## 7. Ineligible Expenditures

**7.1 Ineligible Expenditures Generally.** If the Bank determines that any amount of the loan was used to pay for an expenditure that is not eligible pursuant to the Loan Agreement ("ineligible expenditure"), the Bank may, at its discretion, require the borrower to take one of the two actions listed below. Upon notification by the Bank, the borrower must promptly take the action requested:

- (a) Refund an equivalent amount to the Bank; or
- (b) Exceptionally, provide substitute documentation evidencing other eligible expenditures.

**7.2 Ineligible Expenditures Paid from the Designated Account.** If the Bank determines that any payment out of the Designated Account was not justified by the evidence furnished to the Bank or was made for an ineligible expenditure, the Bank may, at its discretion, require the borrower to take one of the actions listed below. Upon notification by the Bank, the borrower must promptly take the action requested:

- (a) Provide the additional evidence requested by the Bank;
- (b) Deposit an equivalent amount into the Designated Account;

- (c) Refund an equivalent amount to the Bank; or
- (d) Exceptionally, provide substitute documentation evidencing other eligible expenditures.

## 8. Refunds

**8.1 Borrower Decision to Refund.** The borrower may, upon notice to the Bank, refund all or any amount of the loan on deposit in the Designated Account to the Bank for credit to the Loan Account.

**8.2 Consequence of Refunds.** The Bank shall determine whether refunds made to the Bank in accordance with sections 6 and 7 and subsection 8.1 of these Disbursement Guidelines will be credited to the Loan Account for subsequent withdrawal or for cancellation. Borrowers should be aware that refunds of loan proceeds may result in swap termination fees and/or unwinding costs for amounts for which the interest rate basis or currency has been converted or hedged.

**8.3 Other Obligations Unaffected by Refunds.** Refunds of amounts of the loan do not affect any remedies of the Bank under the Loan Agreement.

[Letterhead]  
[Ministry of Finance]  
[Street address]  
[City] [Country]

[DATE]

The World Bank  
P.O. Box 416  
New Delhi 110 001, India

Attention: India Country Director

Dear India Country Director:

Re: Loan No.7577-IN (Orissa State Roads Project)

I refer to the Loan Agreement ("Agreement") between India (the "Borrower") and the International Bank for Reconstruction and Development (the "Bank"), dated \_\_\_\_\_, providing the above Loan. For the purposes of Section 2.03 of the General Conditions, as defined in the Agreement, any [one] of the persons whose authenticated specimen signatures appear below is authorized on behalf of the Borrower to sign applications for withdrawal [and applications for a special commitment] under this Loan:

[Name], [position]      Specimen Signature: \_\_\_\_\_

[Name], [position]      Specimen Signature: \_\_\_\_\_

[Name], [position]      Specimen Signature: \_\_\_\_\_

Yours truly,  
/ signed /

\_\_\_\_\_  
[Position]

<sup>1</sup> Instruction to the borrower when sending this letter to the Bank: Stipulate if more than one person needs to sign Applications, and how many or which positions, and if any thresholds apply.

Government of Orissa  
Orissa State Roads Project  
(IBRD.....(N))

Project Expenditures as per AG Monthly Appropriation Accounts  
Period: \_\_\_\_\_ to \_\_\_\_\_

Demand No	01	Works Department
Major Head	5054	Capital Outlay on Roads and Bridges
Part Sector	03	State Highway

Amount in Rs

Sl. No.	Project Component/Sub Component	Fiscal Year Budget				Current Quarter				Expenditure Reported				Cumulative for the Project			
		General		ECSCP		Total		Total		Year to Date		Total		Total			
		(327)	(796)	(186)	(186)	(327)	(796)	(186)	(186)	(327)	(796)	(186)	(186)	(327)	(796)	(186)	Total
124	Road Improvement Component	527,433,000	343,885,000	227,811,000	1,427,248,000												
	Less: Prepaid charges	130,000,000	16,300,000	3,420,000	749,888,000												
125	PPP Component	25,885,000	1,627,000	3,211,000	49,889,000												
	Less: Prepaid charges	5,700,000	1,615,000	9,30,000	28,679,000												
126	BM and Operating Costs	30,916,000	13,769,000	12,960,000	88,045,000												
	Less: Prepaid charges	7,452,000	1,865,000	2,770,000	78,068,000												
127	Construction materials	46,944,000	14,817,000	14,130,000	79,891,000												
	Less: Prepaid charges	-	-	-	-												
128	Materializer & Reinforcement	50,000,000	17,660,000	15,027,000	72,687,000												
	Less: Prepaid charges	4,011,000	3,747,000	3,844,000	68,989,000												
	Less Acquisition, utility shifting and other non-salable exp	43,000,000	10,815,000	10,277,000	61,908,000												
129		53,930,000	24,370,000	22,257,000	140,557,000												
	Less: Prepaid charges	13,865,000	3,237,000	3,442,000	126,453,000												
	<b>Total</b>	<b>1,027,663,000</b>	<b>330,940,000</b>	<b>282,501,000</b>	<b>1,776,668,000</b>												

1,027,663,000    330,940,000    282,501,000    1,776,668,000

Certified that the expenditures reported above are based on the AG Monthly Appropriation Accounts and that the funds have been used for intended purposes

Prepared by: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
Date: \_\_\_\_\_



Government of Ontario  
 Ontario Skills Review Project  
 (OSRP) - 2017  
 Cash Forecast for Project Establishment  
 Period: \_\_\_\_\_

Amount in \$K

Project Component/Activity	Expenditure Summary												Total			
	Capital Expenditure						Operating Expenditure						Total	Total	Total	
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6				
Project Component/Activity	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total	Total	Total	
Capital Expenditure																
Operating Expenditure																
Total																
Project Component/Activity	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total	Total	Total	
Operating Expenditure																
Total																

Approved by: \_\_\_\_\_

Government of Orissa  
Orissa State Roads Project  
(IBRD.....-IN)

Quarterly Financial Monitoring Report - (World Bank Funds requirement)

Report for the quarter ended on \_\_\_\_\_

(Amount in Rs)

World Bank Funds received by GoO till date	I	100
Total Project Uses till date	II	40
Less: Ineligible expenditures	III	5
Expenditures net of Ineligible expenditures (II - III)	IV	35
World Bank Share @ XX% of the above	V	28
Funds Unutilized (I - V)	VI	72
Forecast for Project payments for the next 2 quarters (eligible expenditures)	VII	120
World Bank Share @ XX% of the above	VIII	96
Less: Funds Unutilized (same as VI above)	IX	72
Net Funds required (VIII - IX)	X	24

Bank funds received by GoO as in (i) above will be obtained from the State Accounts

Project Uses till date 'II', will be the same as in Project Report Format IA, Column R Row 37 and Project Report Format 1B, Column L Row 75

Eligible expenditures Project Uses till date 'III', will be the same as in Project Report Format IB, Column T Row 75

Expenditures net of ineligible expenditures 'IV', will be the same as in Project Report Format IB, Column Q Row 75

Bank share 'V', will be the same as in project Report Format IB, Column O Row 75

Forecast for expenditures for the next 2 quarters 'VII' will be the same as in Project Report Format IC, Column Q Row 75

Bank Share of forecasted expenditures for the next 2 quarters 'VIII' will be the same as in Project Report Format IC, Column O Row 75



Government of Orissa  
Orissa State Roads Project  
(ORRD ..... 48)  
Commitment Tracking Report  
for other sector activities.

as at: .....

Amount in Rs.

Project Component	Category (Other, Quota or Normal)	Year 1 (2001-02) or 2002-03	Year 2 (2003-04)	Year 3 (2004-05)	Year 4 (2005-06)	Year 5 (2006-07)	Year 6 (2007-08)	Year 7 (2008-09)	Year 8 (2009-10)	Year 9 (2010-11)	Year 10 (2011-12)	Value of Commitment (in Rs.)			Percentage of Commitment			Total Commitment (in Rs.)	
												Approved	Disbursed	Unutilized	Approved	Disbursed	Unutilized		
1. Road Development Component																			
Subtotal																			
Year 1 Package 1 - Orissa Road Development																			
Year 1 Package 2 - Orissa Road Development																			
Year 1 Package 3 - Orissa Road Development																			
Year 2 Package 1 - Orissa Road Development																			
Year 2 Package 2 - Orissa Road Development																			
Year 2 Package 3 - Orissa Road Development																			
Year 3 Package 1 - Orissa Road Development																			
Year 3 Package 2 - Orissa Road Development																			
Year 3 Package 3 - Orissa Road Development																			
Year 4 Package 1 - Orissa Road Development																			
Year 4 Package 2 - Orissa Road Development																			
Year 4 Package 3 - Orissa Road Development																			
Year 5 Package 1 - Orissa Road Development																			
Year 5 Package 2 - Orissa Road Development																			
Year 5 Package 3 - Orissa Road Development																			
Year 6 Package 1 - Orissa Road Development																			
Year 6 Package 2 - Orissa Road Development																			
Year 6 Package 3 - Orissa Road Development																			
Year 7 Package 1 - Orissa Road Development																			
Year 7 Package 2 - Orissa Road Development																			
Year 7 Package 3 - Orissa Road Development																			
Year 8 Package 1 - Orissa Road Development																			
Year 8 Package 2 - Orissa Road Development																			
Year 8 Package 3 - Orissa Road Development																			
Year 9 Package 1 - Orissa Road Development																			
Year 9 Package 2 - Orissa Road Development																			
Year 9 Package 3 - Orissa Road Development																			
Year 10 Package 1 - Orissa Road Development																			
Year 10 Package 2 - Orissa Road Development																			
Year 10 Package 3 - Orissa Road Development																			
TOTAL																			

Prepared by: .....

Approved by: .....



Government of Ontario  
 Ontario State Roads Project  
 (BRD .....IN)  
 Physical and Financial Progress by Component

Commitment	Unit	Fiscal Quarter	Physical Progress		Financial Progress		
			Year to Date	Project Start to Date	Fiscal Quarter	Year to Date	Project Start to Date
<b>Road Improvement Component</b>							
Civil Works							
Year 1 - Package 1 - Simcoe/McKenzie							
Year 1 - Package 2 - Dundas/Chippewa							
Year 1 - Package 3 - East Beaver Creek							
Year 2 - Package 1 - Vaughan/16th							
Year 2 - Package 2 - Richmond Hill/16th							
Year 2 - Package 3 - Aurora/16th							
Year 2 - Package 4 - Richmond Hill/16th							
Construction Supervision							
Construction Supervision Year 1 (CONSCV1)							
Construction Supervision Year 2 (CONSCV2)							
Consultants Others							
Environment Advisor (ENV-ADV)							
Social Advisor (SOC-ADV)							
PPP Consultant							
PPP Transition Advisor (ORSP-PTA)							
PPP Transition Advisor (ORSP-PTA2)							
Independent Engineer for O&M (O&M-ENG)							
O&M and Detailed Cost							
O&M							
Establishment of asset management system (ORSP-AMS)							
Road Factor Institutional Development Study							
TRCT, M&S and M&E Development (TRCT)							
Review of PRD Costs & Methods, Including Procurement							
Methods (PROC-MET)							
Road User Satisfaction Surveys, Land Use Impact, and Quality							
Hardness & Subbase for asset management							
Training of O&M staff							
Operational Costs							
Lease and Mobility							
Traveling expenses							
Salary of O&M staff							
Lease of vehicles							
Daily allowances for staff							
Advertising & Publications							
Office Maintenance & Equipment							
Office Supplies							
Printing (including purchase of P1 Unit)							
Procurement of IT equipment, upgrading, etc.							
Maintenance & Replacement							
Engagement of O&M (O&M)							
Payments to O&M							
Land Acquisition, Utility Crossing and other one-time costs							
Land acquisition							
Environmental resources							
Utility Crossing							
<b>Total</b>							

Attachment 4

Payments Made during Reporting Period  
Against Contracts Subject to the Bank's Prior Review

Contract Number	Supplier	Contract Date	Contract Amount	Date of WB's No-Objection to Contract	Amount Paid to Supplier during Period	WB's Share of Amt Paid to Supplier during Period

Cleared with and cc: Mr. Binyam Reja, SASDT  
Mr. Gennady Pilch, LEGES



## GUIDELINES

### On Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants

Dated October 15, 2006

#### Purpose and General Principles

1. These Guidelines are designed to prevent and combat fraud and corruption that may occur in connection with the use of proceeds of financing from the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA) during the preparation and/or implementation of IBRD/IDA-financed investment projects. They set out the general principles, requirements and sanctions applicable to persons and entities which receive, are responsible for the deposit or transfer of, or take or influence decisions regarding the use of, such proceeds.
2. All persons and entities referred to in paragraph 1 above must observe the highest standard of ethics. Specifically, all such persons and entities must take all appropriate measures to prevent and combat fraud and corruption, and refrain from engaging in, fraud and corruption in connection with the use of the proceeds of IBRD or IDA financing.

#### Legal Considerations

3. The Loan Agreement<sup>1</sup> providing for a Loan<sup>2</sup> governs the legal relationships between the Borrower<sup>3</sup> and the Bank<sup>4</sup> with respect to the particular project for which the Loan is made. The responsibility for the implementation of the project<sup>5</sup> under the Loan Agreement, including the use of Loan proceeds, rests with the Borrower. The Bank, for

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<sup>1</sup> References in these Guidelines to "Loan Agreement" include any Guarantee Agreement providing for a guarantee by the Member Country of an IBRD Loan, Financing Agreement providing for an IDA Credit or IDA Grant, agreement providing for a project preparation advance, or Institutional Development Fund (IDF) Grant, Trust Fund Grant Agreement providing for a recipient-executed trust fund Grant in cases where these Guidelines are made applicable to such agreement, and the Project Agreement with a Project Implementing Entity related to an IBRD loan or IDA credit or grant.

<sup>2</sup> References to "Loans" include IBRD loans as well as IDA credits and grants, project preparation advances, IDF grants and recipient-executed trust fund grants for projects to which these Guidelines are made applicable under the agreement providing for such grant, but excludes development policy lending, unless the Bank agrees with the Borrower on specified purposes for which loan proceeds may be used

<sup>3</sup> References in these Guidelines to the "Borrower" include the recipient of a grant. In some cases, an IBRD Loan may be made to an entity other than the Member Country. In such cases, references in these Guidelines to "Borrower" include the Member Country as Guarantor of the Loan, unless the context requires otherwise. In some cases, the project, or a part of the project, is carried out by a Project Implementing Entity with which the Bank has entered into a Project Agreement. In such cases, references in these Guidelines to the "Borrower" include the Project Implementing Entity, as defined in the Loan Agreement.

<sup>4</sup> References in these Guidelines to the "Bank" include both IBRD and IDA.

<sup>5</sup> References in these Guidelines to the "project" means the Project as defined in the Loan Agreement.

its part, has a fiduciary duty under its Articles of Agreement to “make arrangements 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.”<sup>6</sup> These Guidelines constitute an important element of those arrangements and are made applicable to the preparation and implementation of the project as provided in the Loan Agreement.

### **Scope of Application**

4. The following provisions of these Guidelines cover fraud and corruption that may occur in connection with the use of Loan proceeds during the preparation and implementation of a project financed, in whole or in part, by the Bank. These Guidelines cover fraud and corruption in the direct diversion of Loan proceeds for ineligible expenditures, as well as fraud and corruption engaged in for the purpose of influencing any decision as to the use of Loan proceeds. All such fraud and corruption is deemed, for purposes of these Guidelines, to occur “in connection with the use of Loan proceeds”.

5. These Guidelines apply to the Borrower and other all persons or entities which either receive Loan proceeds for their own use (e.g., “end users”), persons or entities such as fiscal agents which are responsible for the deposit or transfer of Loan proceeds (whether or not they are beneficiaries of such proceeds), and persons or entities which take or influence decisions regarding the use of Loan proceeds. All such persons and entities are referred to in these Guidelines as “recipients of Loan proceeds”, whether or not they are in physical possession of such proceeds.<sup>7</sup>

6. The Bank’s specific policy requirements on fraud and corruption in connection with the procurement or execution of contracts for goods, works or services financed out of the proceeds of a Loan from the Bank, are covered in the *Guidelines: Procurement under IBRD Loans and IDA Credits*, May 2004, as revised October 2006 (“Procurement Guidelines”) and the *Guidelines: the Selection and Employment of Consultants by World Bank Borrowers*, May 2004, as revised October 2006 (“Consultant Guidelines”). For ease of reference, the relevant sections of the Procurement Guidelines and Consultant Guidelines are set forth in the Annex to these Guidelines.

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<sup>6</sup> IBRD’s Articles of Agreement, Article III, Section 5(b); IDA’s Articles of Agreement, Article V, Section 1(g).

<sup>7</sup> Certain persons or entities may fall under more than one category identified in paragraph 5. A financial intermediary, for example, may receive payment for its services, will transfer funds to end users and will make or influence decisions regarding the use of loan proceeds.



## Definitions of Practices Constituting Fraud and Corruption

7. These Guidelines address the following defined practices when engaged in by recipients of Loan proceeds in connection with the use of such proceeds:<sup>8</sup>

A “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.<sup>9</sup>

A “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly<sup>10</sup> misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

A “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.

A “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

An “obstructive practice” is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of the Bank’s contractual rights of audit or access to information.<sup>11</sup>

8. The above practices, as so defined, are sometimes referred to collectively in these Guidelines as “fraud and corruption”.

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<sup>8</sup> Unless otherwise specified in the Loan Agreement, whenever these terms are used in the Loan Agreement, including in the applicable General Conditions, they have the meanings set out in paragraph 7 of these Guidelines.

<sup>9</sup> Typical examples of corrupt practice include bribery and “kickbacks”.

<sup>10</sup> To act “knowingly or recklessly”, the fraudulent actor must either know that the information or impression being conveyed is false, or be recklessly indifferent as to whether it is true or false. Mere inaccuracy in such information or impression, committed through simple negligence, is not enough to constitute fraudulent practice.

<sup>11</sup> Such rights include those provided for, *inter alia*, in paragraph 9(d) below.

**Borrower Actions to Prevent and Combat Fraud and Corruption in connection with the Use of Loan Proceeds**

9. In furtherance of the above-stated purpose and general principles, the Borrower will:

(a) take all appropriate measures to prevent corrupt, fraudulent, collusive, coercive and obstructive practices in connection with the use of Loan proceeds, including (but not limited to) (i) adopting appropriate fiduciary and administrative practices and institutional arrangements to ensure that the proceeds of the Loan are used only for the purposes for which the Loan was granted, and (ii) ensuring that all of its representatives<sup>12</sup> involved with the project, and all recipients of Loan proceeds with which it enters into an agreement related to the Project, receive a copy of these Guidelines and are made aware of its contents;

(b) immediately report to the Bank any allegations of fraud and corruption in connection with the use of Loan proceeds that come to its attention;

(c) if the Bank determines that any person or entity referred to in (a) above has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with the use of Loan proceeds, take timely and appropriate action, satisfactory to the Bank, to address such practices when they occur;

(d) include such provisions in its agreements with each recipient of Loan proceeds as the Bank may require to give full effect to these Guidelines, including (but not limited to) provisions (i) requiring such recipient to abide by paragraph 10 of these Guidelines, (ii) requiring such recipient to permit the Bank to inspect all of their accounts and records and other documents relating to the project required to be maintained pursuant to the Loan Agreement and to have them audited by, or on behalf of, the Bank, (iii) providing for the early termination or suspension by the Borrower of the agreement if such recipient is declared ineligible by the Bank under paragraph 11 below; and (iv) requiring restitution by such recipient of any amount of the loan with respect to which fraud and corruption has occurred;

(e) cooperate fully with representatives of the Bank in any investigation into allegations of fraud and corruption in connection with the use of loan proceeds; and

(f) in the event that the Bank declares any recipient of Loan proceeds ineligible as described in paragraph 11 below, take all necessary and appropriate action to give full effect to such declaration by, among other things, (i) exercising the Borrower's right to terminate early or suspend the agreement between the Borrower and such recipient and/or (ii) seeking restitution.

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<sup>12</sup> References in these Guidelines to "representatives" of an entity also include its officials, officers, employees and agents.

### **Other Recipients of Loan Proceeds**

10. In furtherance of the above-stated purpose and general principles, each recipient of Loan proceeds which enters into an agreement with the Borrower (or with another recipient of Loan proceeds) relating to the Project will:

- (a) carry out its project-related activities in accordance with the above-stated general principles and the provisions of its agreement with the Borrower referred to in paragraph 9 (d) above; and include similar provisions in any agreements related to the Project into which it may enter with other recipients of Loan proceeds;
- (b) immediately report to the Bank any allegations of fraud and corruption in connection with the use of loan proceeds that come to its attention;
- (c) cooperate fully with representatives of the Bank in any investigation into allegations of fraud and corruption in connection with the use of loan proceeds;
- (d) take all appropriate measures to prevent corrupt, fraudulent, collusive, coercive and obstructive practices by its representatives (if any) in connection with the use of loan proceeds, including (but not limited to): (i) adopting appropriate fiduciary and administrative practices and institutional arrangements to ensure that the proceeds of the loan are used only for the purposes for which the loan was granted, and (ii) ensuring that all its representatives receive a copy of these Guidelines and are made aware of its contents;
- (e) in the event that any representative of such recipient is declared ineligible as described in paragraph 11 below, take all necessary and appropriate action to give full effect to such declaration by, among other things, either removing such representative from all duties and responsibilities in connection with the project or, when requested by the Bank or otherwise appropriate, terminating its contractual relationship with such representative; and
- (f) in the event that it has entered into a project-related agreement with another person or entity which is declared ineligible as described in paragraph 11 below, take all necessary and appropriate action to give full effect to such declaration by, among other things, (i) exercising its right to terminate early or suspend such agreement and/or (ii) seeking restitution.

### **Sanctions and Related Actions by the Bank in Cases of Fraud and Corruption**

11. In furtherance of the above-stated purpose and general principles, the Bank will have the right to take the following actions:

(a) sanction any recipient of Loan proceeds<sup>13</sup> other than the Member Country<sup>14</sup> (and/or, if such recipient is an entity rather than a natural person, any of its representatives); sanctions include (but are not limited to) declaring such person or entity ineligible to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of the project or any other project financed, in whole or in part, by the Bank, if at any time the Bank determines<sup>15</sup> that such person or entity has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in connection with the use of loan proceeds;<sup>16</sup>

(b) if the Bank determines that any such recipient of Loan proceeds is also a potential provider of goods, works or services, declare it ineligible under paragraph 1.8 (d) of the Procurement Guidelines or paragraph 1.11 (e) of the Consultant Guidelines (as appropriate); and

(c) declare a firm, consultant or individual ineligible under paragraph 11 (a) above if such firm, consultant or individual has been declared ineligible under paragraph 1.14 of the Procurement Guidelines or under paragraph 1.22 of the Consultant Guidelines.

## **Miscellaneous**

12. The provisions of these Guidelines do not limit any other rights, remedies<sup>17</sup> or obligations of the Bank or the Borrower under the Loan Agreement or any other document to which the Bank and the Borrower are both parties.

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<sup>13</sup> As in the case for bidders in the procurement context, the Bank may also sanction persons and entities which engage in fraud or corruption in the course of applying to become a recipient of Loan proceeds (e.g., a bank which provides false documentation so as to qualify as a financial intermediary in a Bank-financed project) irrespective of whether they are successful.

<sup>14</sup> Member Country includes officials and employees of the national government or of any of its political or administrative subdivisions, and government owned enterprises and agencies that are not eligible to bid under paragraph 1.8(b) of the Procurement Guidelines or participate under paragraph 1.11(b) of the Consultant Guidelines.

<sup>15</sup> The Bank has established a Sanctions Board, and related procedures, for the purpose of making such determinations. The procedures of the Sanctions Board sets forth the full set of sanctions available to the Bank.

<sup>16</sup> The sanction may, without limitation, also include restitution of any amount of the loan with respect to which sanctionable conduct has occurred. The Bank may publish the identity of any entity declared ineligible under paragraph 11.

<sup>17</sup> The Loan Agreement provides the Bank with certain rights and remedies which it may exercise with respect to the Loan in the event of fraud and corruption in connection with the use of Loan proceeds, in the circumstances described therein.

**International Bank for  
Reconstruction and Development**

**General Conditions  
for  
Loans**

**Dated July 1, 2005  
(as amended through February 12, 2008)**

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## **ARTICLE I**

### **Introductory Provisions**

#### *Section 1.01. Application of General Conditions*

These General Conditions set forth certain terms and conditions generally applicable to the Loan Agreement and to any other Legal Agreement. They apply to the extent the Legal Agreement so provides. If the Loan Agreement is between the Member Country and the Bank, references in these General Conditions to the Guarantor and the Guarantee Agreement shall be disregarded. If there is no Project Agreement between the Bank and a Project Implementing Entity, references in these General Conditions to the Project Implementing Entity and the Project Agreement shall be disregarded.

#### *Section 1.02. Inconsistency with Legal Agreements*

If any provision of any Legal Agreement is inconsistent with a provision of these General Conditions, the provision of the Legal Agreement shall govern.

#### *Section 1.03. Definitions*

Whenever used in these General Conditions or in the Legal Agreements (except as otherwise provided in the Legal Agreements), the terms set forth in the Appendix have the meanings ascribed to them in the Appendix.

#### *Section 1.04. References; Headings*

References in these General Conditions to Articles, Sections and Appendix are to the Articles and Sections of, and the Appendix to, these General Conditions. The headings of the Articles, Sections and Appendix, and the Table of Contents are inserted in these General Conditions for reference only and shall not be taken into consideration in interpreting these General Conditions.

## **ARTICLE II**

### **Withdrawals**

#### *Section 2.01. Loan Account; Withdrawals Generally; Currency of Withdrawal*

(a) The Bank shall credit the amount of the Loan to the Loan Account in the Loan Currency. If the Loan is denominated in more than one currency, the

Bank shall divide the Loan Account into multiple sub-accounts, one for each Loan Currency.

(b) The Borrower may from time to time request withdrawals of amounts of the Loan from the Loan Account in accordance with the provisions of the Loan Agreement and of these General Conditions.

(c) Each withdrawal of an amount of the Loan from the Loan Account shall be made in the Loan Currency of such amount. The Bank shall, at the request and acting as an agent of the Borrower, and on such terms and conditions as the Bank shall determine, purchase with the Loan Currency withdrawn from the Loan Account such Currencies as the Borrower shall reasonably request to meet payments for Eligible Expenditures.

Section 2.02. *Special Commitment by the Bank*

At the Borrower's request and on such terms and conditions as the Bank and the Borrower shall agree, the Bank may enter into special commitments in writing to pay amounts for Eligible Expenditures notwithstanding any subsequent suspension or cancellation by the Bank or the Borrower ("Special Commitment").

Section 2.03. *Applications for Withdrawal or for Special Commitment*

(a) When the Borrower wishes to request a withdrawal from the Loan Account or to request the Bank to enter into a Special Commitment, the Borrower shall deliver to the Bank a written application in such form and substance as the Bank shall reasonably request. Applications for withdrawal, including the documentation required pursuant to this Article, shall be made promptly in relation to Eligible Expenditures.

(b) The Borrower shall furnish to the Bank evidence satisfactory to the Bank of the authority of the person or persons authorized to sign such applications and the authenticated specimen signature of each such person.

(c) The Borrower shall furnish to the Bank such documents and other evidence in support of each such application as the Bank shall reasonably request, whether before or after the Bank has permitted any withdrawal requested in the application.

(d) Each such application and accompanying documents and other evidence must be sufficient in form and substance to satisfy the Bank that the Borrower is entitled to withdraw from the Loan Account the amount applied for

and that the amount to be withdrawn from the Loan Account will be used only for the purposes specified in the Loan Agreement.

(e) The Bank shall pay the amounts withdrawn by the Borrower from the Loan Account only to, or on the order of, the Borrower.

#### Section 2.04. *Designated Accounts*

(a) The Borrower may open and maintain one or more designated accounts into which the Bank may, at the request of the Borrower, deposit amounts withdrawn from the Loan Account as advances for purposes of the Project. All designated accounts shall be opened in a financial institution acceptable to the Bank, and on terms and conditions acceptable to the Bank.

(b) Deposits into, and payments out of, any such designated account shall be made in accordance with the Loan Agreement and these General Conditions and such additional instructions as the Bank may specify from time to time by notice to the Borrower. The Bank may, in accordance with the Loan Agreement and such instructions, cease making deposits into any such account upon notice to the Borrower. In such case, the Bank shall notify the Borrower of the procedures to be used for subsequent withdrawals from the Loan Account.

#### Section 2.05. *Eligible Expenditures*

The Borrower and the Project Implementing Entity shall use the proceeds of the Loan exclusively to finance expenditures which, except as otherwise provided in the Loan Agreement, satisfy the following requirements ("Eligible Expenditure"):

(a) the payment is for the financing of the reasonable cost of goods, works or services required for the Project, to be financed out of the proceeds of the Loan and procured, all in accordance with the provisions of the Legal Agreements;

(b) the payment is not prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

(c) the payment is made on or after the date specified in the Loan Agreement, and except as the Bank may otherwise agree, is for expenditures incurred prior to the Closing Date.

Section 2.06. *Financing Taxes*

The use of any proceeds of the Loan to pay for Taxes levied by, or in the territory of, the Member Country on or in respect of Eligible Expenditures, or on their importation, manufacture, procurement or supply, if permitted by the Legal Agreements, is subject to the Bank's policy of requiring economy and efficiency in the use of the proceeds of its loans. To that end, if the Bank at any time determines that the amount of any such Tax is excessive, or that such Tax is discriminatory or otherwise unreasonable, the Bank may, by notice to the Borrower, adjust the percentage of such Eligible Expenditures to be financed out of the proceeds of the Loan specified in the Loan Agreement, as required to ensure consistency with such policy of the Bank.

Section 2.07. *Refinancing Project Preparation Advance; Capitalizing Front-end Fee and Interest*

(a) If the Bank or the Association has made an advance to a Loan Party for the preparation of the Project ("Project Preparation Advance"), the Bank shall, on behalf of such Loan Party, withdraw from the Loan Account on or after the Effective Date the amount required to repay the withdrawn and outstanding balance of the advance as at the date of such withdrawal from the Loan Account and to pay all unpaid charges on the advance as at such date. The Bank shall pay the amount so withdrawn to itself or the Association, as the case may be, and shall cancel the remaining unwithdrawn amount of the advance.

(b) Except as otherwise provided in the Loan Agreement, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account on or after the Effective Date and pay to itself the amount of the Front-end Fee payable pursuant to Section 3.01.

(c) If the Loan Agreement provides for financing of interest and other charges on the Loan out of the proceeds of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account on each of the Payment Dates, and pay to itself the amount required to pay such interest and other charges accrued and payable as at such date, subject to any limit specified in the Loan Agreement on the amount to be so withdrawn.

Section 2.08. *Reallocation*

Notwithstanding any allocation of an amount of the Loan to a category of expenditures under the Loan Agreement, if the Bank reasonably determines at

any time that such amount will be insufficient to finance such expenditures, it may, by notice to the Borrower:

(a) reallocate any other amount of the Loan which in the opinion of the Bank is not needed for the purpose for which it has been allocated under the Loan Agreement, to the extent required to meet the estimated shortfall; and

(b) if such reallocation will not fully meet the estimated shortfall, reduce the percentage of such expenditures to be financed out of the proceeds of the Loan, in order that withdrawals for such expenditures may continue until all such expenditures have been made.

### **ARTICLE III**

#### **Loan Terms**

*Section 3.01. Front-end Fee.* The Borrower shall pay the Bank a front-end fee on the Loan amount at the rate specified in the Loan Agreement (the "Front-end Fee").

*Section 3.02. Interest*

(a) The Borrower shall pay the Bank interest on the Withdrawn Loan Balance at the rate specified in the Loan Agreement; provided, however, that if the Loan Agreement provides for Conversions, such rate may be modified from time to time in accordance with the provisions of Article IV. Interest shall accrue from the respective dates on which amounts of the Loan are withdrawn and shall be payable semi-annually in arrears on each Payment Date.

(b) If interest on any amount of the Withdrawn Loan Balance is based on a Variable Spread, the Bank shall notify the Loan Parties of the interest rate on such amount for each Interest Period, promptly upon its determination.

(c) If interest on any amount of the Withdrawn Balance is payable at the Variable Rate, then whenever, in light of changes in market practice affecting the determination of the interest rate applicable to such amount, the Bank determines that it is in the interest of its borrowers as a whole and of the Bank to apply a basis for determining such interest rate other than as provided in the Loan Agreement and these General Conditions, the Bank may modify the basis for determining such interest rate upon not less than three months' notice to the Loan Parties of the new basis. The new basis shall become effective on the expiry of

the notice period unless a Loan Party notifies the Bank during such period of its objection to such modification, in which case the modification shall not apply to such amount of the Loan.

(d) Notwithstanding the provisions of paragraph (a) of this Section, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty days, then the Borrower shall pay the Default Interest Rate on such overdue amount in lieu of the interest rate specified in the Loan Agreement (or such other interest rate as may be applicable pursuant to Article IV as a result of a Conversion) until such overdue amount is fully paid. Interest at the Default Interest Rate shall accrue from the first day of each Default Interest Period and shall be payable semi-annually in arrears on each Payment Date.

#### Section 3.03. *Repayment*

The Borrower shall repay the Withdrawn Loan Balance to the Bank in accordance with the provisions of the Loan Agreement.

#### Section 3.04. *Prepayment*

(a) After giving not less than forty-five days' notice to the Bank, the Borrower may repay the Bank the following amounts in advance of maturity, as of a date acceptable to the Bank (provided that the Borrower has paid all Loan Payments due as at such date, including any prepayment premium calculated pursuant to paragraph (b) of this Section): (i) the entire Withdrawn Loan Balance as at such date, or (ii) the entire principal amount of any one or more maturities of the Loan. Any partial prepayment of the Withdrawn Loan Balance shall be applied in the manner specified by the Borrower, or in the absence of any specification by the Borrower, in the following manner: (A) if the Loan Agreement provides for the separate amortization of specified disbursed amounts of the principal of the Loan ("Disbursed Amounts"), the prepayment shall be applied in the inverse order of the Disbursed Amounts, with the Disbursed Amount which has been withdrawn last being repaid first and with the latest maturity of said Disbursed Amount being repaid first; and (B) in all other cases, the prepayment shall be applied in the inverse order of the Loan maturities, with the latest maturity being repaid first.

(b) The prepayment premium payable under paragraph (a) of this Section shall be an amount reasonably determined by the Bank to represent any cost to it of redeploying the amount to be prepaid from the date of its prepayment to its maturity date.

(c) If, in respect of any amount of the Loan to be prepaid, a Conversion has been effected and the Conversion Period has not terminated at the time of prepayment: (i) the Borrower shall pay a transaction fee for the early termination of the Conversion, in such amount or at such rate as announced by the Bank from time to time and in effect at the time of receipt by the Bank of the Borrower's notice of prepayment; and (ii) the Borrower or the Bank, as the case may be, shall pay an Unwinding Amount, if any, for the early termination of the Conversion, in accordance with the Conversion Guidelines. Transaction fees provided for under this paragraph and any Unwinding Amount payable by the Borrower pursuant to this paragraph shall be paid not later than sixty days after the date of prepayment.

Section 3.05. *Partial Payment*

If the Bank at any time receives less than the full amount of any Loan Payment then due, it shall have the right to allocate and apply the amount so received in any manner and for such purposes under the Loan Agreement as it determines in its sole discretion.

Section 3.06. *Place of Payment*

All Loan Payments shall be paid at such places as the Bank shall reasonably request.

Section 3.07. *Currency of Payment*

(a) The Borrower shall pay all Loan Payments in the Loan Currency; and if a Conversion has been effected in respect of any amount of the Loan, as further specified in the Conversion Guidelines.

(b) If the Borrower so requests, the Bank shall, acting as agent of the Borrower, and on such terms and conditions as the Bank shall determine, purchase the Loan Currency for the purpose of paying a Loan Payment upon timely payment by the Borrower of sufficient funds for that purpose in a Currency or Currencies acceptable to the Bank; provided, however, that the Loan Payment shall be deemed to have been paid only when and to the extent that the Bank has received such payment in the Loan Currency.

Section 3.08. *Temporary Currency Substitution*

(a) If the Bank reasonably determines that an extraordinary situation has arisen under which the Bank shall be unable to provide the Loan Currency at

any time for purposes of funding the Loan, the Bank may provide such substitute Currency or Currencies ("Substitute Loan Currency") for the Loan Currency ("Original Loan Currency") as the Bank shall select. During the period of such extraordinary situation: (i) the Substitute Loan Currency shall be deemed to be the Loan Currency for purposes of these General Conditions and the Legal Agreements; and (ii) Loan Payments shall be paid in the Substitute Loan Currency, and other related financial terms shall be applied, in accordance with principles reasonably determined by the Bank. The Bank shall promptly notify the Loan Parties of the occurrence of such extraordinary situation, the Substitute Loan Currency and the financial terms of the Loan related to the Substitute Loan Currency.

(b) Upon notification by the Bank under paragraph (a) of this Section, the Borrower may within thirty days thereafter notify the Bank of its selection of another Currency acceptable to the Bank as the Substitute Loan Currency. In such case, the Bank shall notify the Borrower of the financial terms of the Loan applicable to said Substitute Loan Currency, which shall be determined in accordance with principles reasonably established by the Bank.

(c) During the period of the extraordinary situation referred to in paragraph (a) of this Section, no premium shall be payable on prepayment of the Loan.

(d) Once the Bank is again able to provide the Original Loan Currency, it shall, at the Borrower's request, change the Substitute Loan Currency to the Original Loan Currency in accordance with principles reasonably established by the Bank.

#### Section 3.09. *Valuation of Currencies*

Whenever it becomes necessary for the purposes of any Legal Agreement, to determine the value of one Currency in terms of another, such value shall be as reasonably determined by the Bank.

#### Section 3.10. *Manner of Payment*

(a) Any Loan Payment required to be paid to the Bank in the Currency of any country shall be made in such manner, and in Currency acquired in such manner, as shall be permitted under the laws of such country for the purpose of making such payment and effecting the deposit of such Currency to the account of the Bank with a depository of the Bank authorized to accept deposits in such Currency.



(b) All Loan Payments shall be paid without restrictions of any kind imposed by, or in the territory of, the Member Country and without deduction for, and free from, any Taxes levied by or in the territory of the Member Country.

(c) The Legal Agreements shall be free from any Taxes levied by or in the territory of the Member Country on or in connection with their execution, delivery or registration.

## ARTICLE IV

### Conversions of Loan Terms

#### Section 4.01. *Conversions Generally*

(a) The Borrower may, at any time, request a conversion of the terms of the Loan in accordance with the Loan Agreement in order to facilitate prudent debt management. Each such request shall be furnished by the Borrower to the Bank in accordance with the Conversion Guidelines and, upon acceptance by the Bank, the conversion requested shall be considered a Conversion for the purposes of these General Conditions.

(b) Upon acceptance by the Bank of a request for a Conversion, the Bank shall take all actions necessary to effect the Conversion in accordance with these General Conditions, the Loan Agreement and the Conversion Guidelines. To the extent any modification of the provisions of the Loan Agreement providing for withdrawal or repayment of the proceeds of the Loan is required to give effect to the Conversion, such provisions shall be deemed to have been modified as of the Conversion Date. Promptly after the Execution Date for each Conversion, the Bank shall notify the Loan Parties of the financial terms of the Loan, including any revised amortization provisions and modified provisions providing for withdrawal of the proceeds of the Loan.

(c) Except as otherwise provided in the Conversion Guidelines, the Borrower shall pay a transaction fee for each Conversion, in such amount or at such rate as announced by the Bank from time to time and in effect on the Execution Date. Transaction fees provided for under this paragraph shall be payable not later than sixty days after the Execution Date.

Section 4.02. *Conversion of Loan that Accrues Interest at a Rate Based on the Variable Spread*

If the Bank accepts a request for a Conversion of all or any amount of the Loan that accrues interest at a rate based on the Variable Spread, the Conversion shall be effected first by fixing the Variable Spread applicable to such amount into the Fixed Spread for the Loan Currency and adding to such Fixed Spread the Variable Spread Fixing Charge, followed immediately by the Conversion requested by the Borrower.

Section 4.03. *Interest Payable following Interest Rate Conversion or Currency Conversion*

(a) *Interest Rate Conversion.* Upon an Interest Rate Conversion, the Borrower shall, for each Interest Period during the Conversion Period, pay interest on the amount of the Withdrawn Loan Balance to which the Conversion applies at the Variable Rate or the Fixed Rate, whichever applies to the Conversion.

(b) *Currency Conversion of Unwithdrawn Amounts.* Upon a Currency Conversion of all or any amount of the Unwithdrawn Loan Balance to an Approved Currency, the Borrower shall, for each Interest Period during the Conversion Period, pay interest in the Approved Currency on such amount as subsequently withdrawn and outstanding from time to time at the Variable Rate.

(c) *Currency Conversion of Withdrawn Amounts.* Upon a Currency Conversion of all or any amount of the Withdrawn Loan Balance to an Approved Currency, the Borrower shall, for each Interest Period during the Conversion Period, pay interest in the Approved Currency on such Withdrawn Loan Balance at the Variable Rate or Fixed Rate, whichever applies to the Conversion.

Section 4.04. *Principal Payable following Currency Conversion*

(a) *Currency Conversion of Unwithdrawn Amounts.* In the event of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to an Approved Currency, the principal amount of the Loan so converted shall be determined by the Bank by multiplying the amount to be so converted in its Currency of denomination immediately prior to the Conversion by the Screen Rate. The Borrower shall repay such principal amount as subsequently withdrawn in the Approved Currency in accordance with the provisions of the Loan Agreement.

(b) *Currency Conversion of Withdrawn Amounts.* In the event of a Currency Conversion of an amount of the Withdrawn Loan Balance to an Approved Currency, the principal amount of the Loan so converted shall be determined by the Bank by multiplying the amount to be so converted in its Currency of denomination immediately prior to the Conversion by either: (i) the exchange rate that reflects the amounts of principal in the Approved Currency payable by the Bank under the Currency Hedge Transaction relating to the Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate. The Borrower shall repay such principal amount in the Approved Currency in accordance with the provisions of the Loan Agreement.

(c) *Termination of Conversion Period prior to Final Loan Maturity.* If the Conversion Period of a Currency Conversion applicable to a portion of the Loan terminates prior to the final maturity of such portion, the principal amount of such portion of the Loan remaining outstanding in the Loan Currency to which such amount shall revert upon such termination shall be determined by the Bank either: (i) by multiplying such amount in the Approved Currency of the Conversion by the spot or forward exchange rate prevailing between the Approved Currency and said Loan Currency for settlement on the last day of the Conversion Period; or (ii) in such other manner as specified in the Conversion Guidelines. The Borrower shall repay such principal amount in the Loan Currency in accordance with the provisions of the Loan Agreement.

#### Section 4.05. *Interest Rate Cap; Interest Rate Collar*

(a) *Interest Rate Cap.* Upon the establishment of an Interest Rate Cap on the Variable Rate, the Borrower shall, for each Interest Period during the Conversion Period, pay interest on the amount of the Withdrawn Loan Balance to which the Conversion applies at the Variable Rate, unless on any LIBOR Reset Date during the Conversion Period the Variable Rate exceeds the Interest Rate Cap, in which case, for the Interest Period to which the LIBOR Reset Date relates, the Borrower shall pay interest on such amount at a rate equal to the Interest Rate Cap.

(b) *Interest Rate Collar.* Upon the establishment of an Interest Rate Collar on the Variable Rate, the Borrower shall, for each Interest Period during the Conversion Period, pay interest on the amount of the Withdrawn Loan Balance to which the Conversion applies at the Variable Rate, unless on any LIBOR Reset Date during the Conversion Period the Variable Rate: (i) exceeds the upper limit of the Interest Rate Collar, in which case, for the Interest Period to which the LIBOR Reset Date relates, the Borrower shall pay interest on such

amount at a rate equal to such upper limit; or (ii) falls below the lower limit of the Interest Rate Collar, in which case, for the Interest Period to which the LIBOR Reset Date relates, the Borrower shall pay interest on such amount at a rate equal to such lower limit.

(c) *Interest Rate Cap or Collar Premium.* Upon the establishment of an Interest Rate Cap or an Interest Rate Collar, the Borrower shall pay to the Bank a premium on the amount of the Withdrawn Loan Balance to which the Conversion applies, calculated: (i) on the basis of the premium, if any, payable by the Bank for an interest rate cap or collar purchased by the Bank from a Counterparty for the purpose of establishing the Interest Rate Cap or Interest Rate Collar; or (ii) otherwise as specified in the Conversion Guidelines. Such premium shall be payable by the Borrower not later than sixty days after the Execution Date.

(d) *Early Termination.* Except as otherwise provided in the Conversion Guidelines, upon the early termination of any Interest Rate Cap or Interest Rate Collar by the Borrower: (i) the Borrower shall pay a transaction fee for the early termination, in such amount or at such rate as announced by the Bank from time to time and in effect at the time of receipt by the Bank of the Borrower's notice of early termination; and (ii) the Borrower or the Bank, as the case may be, shall pay an Unwinding Amount, if any, for the early termination, in accordance with the Conversion Guidelines. Transaction fees provided for under this paragraph and any Unwinding Amount payable by the Borrower pursuant to this paragraph shall be paid not later than sixty days after the effective date of the early termination.

## ARTICLE V

### Project Execution

#### Section 5.01. *Project Execution Generally*

The Borrower and the Project Implementing Entity shall carry out their Respective Parts of the Project:

- (a) with due diligence and efficiency;
- (b) in conformity with appropriate administrative, technical, financial, economic, environmental and social standards and practices; and

(c) in accordance with the provisions of the Legal Agreements and these General Conditions.

Section 5.02. *Performance under the Loan Agreement and Project Agreement*

(a) The Guarantor shall not take or permit to be taken any action which would prevent or interfere with the execution of the Project or the performance of the obligations of the Borrower or the Project Implementing Entity under the Legal Agreement to which it is a party.

(b) The Borrower shall: (i) cause the Project Implementing Entity to perform all of the obligations of the Project Implementing Entity set forth in the Project Agreement in accordance with the provisions of the Project Agreement; and (ii) not take or permit to be taken any action which would prevent or interfere with such performance.

Section 5.03. *Provision of Funds and other Resources*

The Borrower shall provide or cause to be provided, promptly as needed, the funds, facilities, services and other resources: (a) required for the Project; and (b) necessary or appropriate to enable the Project Implementing Entity to perform its obligations under the Project Agreement.

Section 5.04. *Insurance*

The Borrower and the Project Implementing Entity shall make adequate provision for the insurance of any goods required for their Respective Parts of the Project and to be financed out of the proceeds of the Loan, against hazards incident to the acquisition, transportation and delivery of the goods to the place of their use or installation. Any indemnity for such insurance shall be payable in a freely usable Currency to replace or repair such goods.

Section 5.05. *Land Acquisition*

The Borrower and the Project Implementing Entity shall take (or cause to be taken) all action to acquire as and when needed all land and rights in respect of land as shall be required for carrying out their Respective Parts of the Project and shall promptly furnish to the Bank, upon its request, evidence satisfactory to the Bank that such land and rights in respect of land are available for purposes related to the Project.

Section 5.06. *Use of Goods, Works and Services; Maintenance of Facilities*

(a) Except as the Bank shall otherwise agree, the Borrower and the Project Implementing Entity shall ensure that all goods, works and services financed out of the proceeds of the Loan are used exclusively for the purposes of the Project.

(b) The Borrower and the Project Implementing Entity shall ensure that all facilities relevant to their Respective Parts of the Project shall at all times be properly operated and maintained and that all necessary repairs and renewals of such facilities shall be made promptly as needed.

Section 5.07. *Plans; Documents; Records*

(a) The Borrower and the Project Implementing Entity shall furnish to the Bank all plans, schedules, specifications, reports and contract documents for their Respective Parts of the Project, and any material modifications of or additions to these documents, promptly upon their preparation and in such detail as the Bank shall reasonably request.

(b) The Borrower and the Project Implementing Entity shall maintain records adequate to record the progress of their Respective Parts of the Project (including its cost and the benefits to be derived from it), to identify the goods, works and services financed out of the proceeds of the Loan and to disclose their use in the Project, and shall furnish such records to the Bank upon its request.

(c) The Borrower and the Project Implementing Entity shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under their Respective Parts of the Project until at least the later of: (i) one year after the Bank has received the audited Financial Statements covering the period during which the last withdrawal from the Loan Account was made; and (ii) two years after the Closing Date. The Borrower and the Project Implementing Entity shall enable the Bank's representatives to examine such records.

Section 5.08. *Project Monitoring and Evaluation*

(a) The Borrower shall maintain or cause to be maintained policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the progress of the Project and the achievement of its objectives.

(b) The Borrower shall prepare or cause to be prepared periodic reports (“Project Report”), in form and substance satisfactory to the Bank, integrating the results of such monitoring and evaluation activities and setting out measures recommended to ensure the continued efficient and effective execution of the Project and to achieve the Project’s objectives. The Borrower shall furnish or cause to be furnished each Project Report to the Bank promptly upon its preparation, afford the Bank a reasonable opportunity to exchange views with the Borrower and the Project Implementing Entity on such report, and thereafter implement such recommended measures, taking into account the Bank’s views on the matter.

(c) The Borrower shall prepare, or cause to be prepared, and furnish to the Bank not later than six months after the Closing Date, or such earlier date as may be specified for that purpose in the Loan Agreement: (i) a report of such scope and in such detail as the Bank shall reasonably request, on the execution of the Project, the performance by the Loan Parties, the Project Implementing Entity and the Bank of their respective obligations under the Legal Agreements and the accomplishment of the purposes of the Loan; and (ii) a plan designed to ensure the sustainability of the Project’s achievements.

Section 5.09. *Financial Management; Financial Statements; Audits*

(a) The Borrower shall maintain or cause to be maintained a financial management system and prepare financial statements (“Financial Statements”) in accordance with consistently applied accounting standards acceptable to the Bank, both in a manner adequate to reflect the operations, resources and expenditures related to the Project.

(b) The Borrower shall:

- (i) have the Financial Statements periodically audited in accordance with the Legal Agreements by independent auditors acceptable to the Bank, in accordance with consistently applied auditing standards acceptable to the Bank; and
- (ii) not later than the date specified in the Legal Agreements, furnish or cause to be furnished to the Bank the Financial Statements as so audited, and such other information concerning the audited Financial Statements and such auditors, as the Bank may from time to time reasonably request.

Section 5.10. *Cooperation and Consultation*

The Bank and the Loan Parties shall cooperate fully to assure that the purposes of the Loan and the objectives of the Project will be accomplished. To that end, the Bank and the Loan Parties shall:

(a) from time to time, at the request of any one of them, exchange views on the Project, the Loan, and the performance of their respective obligations under the Legal Agreements, and furnish to the other party all such information related to such matters as it shall reasonably request; and

(b) promptly inform each other of any condition which interferes with, or threatens to interfere with, such matters.

Section 5.11. *Visits*

(a) The Member Country shall afford all reasonable opportunity for representatives of the Bank to visit any part of its territory for purposes related to the Loan or the Project.

(b) The Borrower and the Project Implementing Entity shall enable the Bank's representatives to: (i) visit any facilities and construction sites included in their Respective Parts of the Project; and (ii) to examine the goods financed out of the proceeds of the Loan for their Respective Parts of the Project, and any plants, installations, sites, works, buildings, property, equipment, records and documents relevant to the performance of their obligations under the Legal Agreements.

**ARTICLE VI**

**Financial and Economic Data;  
Negative Pledge**

Section 6.01. *Financial and Economic Data*

The Member Country shall furnish to the Bank all such information as the Bank shall reasonably request with respect to financial and economic conditions in its territory, including its balance of payments and its External Debt as well as that of its political or administrative subdivisions and of any entity owned or controlled by, or operating for the account or benefit of, the Member Country or any such subdivision, and of any institution performing the functions of a central bank or exchange stabilization fund, or similar functions, for the Member Country.



Section 6.02. *Negative Pledge*

(a) It is the policy of the Bank, in making loans to, or with the guarantee of, its members not to seek, in normal circumstances, special security from the member concerned but to ensure that no other External Debt shall have priority over its loans in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of such member. To that end, if any Lien is created on any Public Assets as security for any External Debt, which will or might result in a priority for the benefit of the creditor of such External Debt in the allocation, realization or distribution of foreign exchange, such Lien shall, unless the Bank shall otherwise agree, *ipso facto* and at no cost to the Bank, equally and ratably secure all Loan Payments, and the Member Country, in creating or permitting the creation of such Lien, shall make express provision to that effect; provided, however, that if for any constitutional or other legal reason such provision cannot be made with respect to any Lien created on assets of any of its political or administrative subdivisions, the Member Country shall promptly and at no cost to the Bank secure all Loan Payments by an equivalent Lien on other Public Assets satisfactory to the Bank.

(b) The Borrower which is not the Member Country undertakes that, except as the Bank shall otherwise agree:

- (i) if it creates any Lien on any of its assets as security for any debt, such Lien will equally and ratably secure the payment of all Loan Payments and in the creation of any such Lien express provision will be made to that effect, at no cost to the Bank; and
- (ii) if any statutory Lien is created on any of its assets as security for any debt, it shall grant at no cost to the Bank, an equivalent Lien satisfactory to the Bank to secure the payment of all Loan Payments.

(c) The provisions of paragraphs (a) and (b) of this Section shall not apply to: (i) any Lien created on property, at the time of purchase of such property, solely as security for the payment of the purchase price of such property or as security for the payment of debt incurred for the purpose of financing the purchase of such property; or (ii) any Lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after the date on which it is originally incurred.

## ARTICLE VII

### **Cancellation; Suspension; Acceleration**

#### Section 7.01. *Cancellation by the Borrower*

The Borrower may, by notice to the Bank, cancel any amount of the Unwithdrawn Loan Balance, except that the Borrower may not cancel any such amount that is subject to a Special Commitment.

#### Section 7.02. *Suspension by the Bank*

If any of the events specified in paragraphs (a) through (m) of this Section occurs and is continuing, the Bank may, by notice to the Loan Parties, suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account. Such suspension shall continue until the event (or events) which gave rise to the suspension has (or have) ceased to exist, unless the Bank has notified the Loan Parties that such right to make withdrawals has been restored.

##### (a) *Payment Failure.*

- (i) The Borrower has failed to make payment (notwithstanding the fact that such payment may have been made by the Guarantor or a third party) of principal or interest or any other amount due to the Bank or the Association: (A) under the Loan Agreement; or (B) under any other agreement between the Bank and the Borrower; or (C) under any agreement between the Borrower and the Association; or (D) in consequence of any guarantee extended or other financial obligation of any kind assumed by the Bank or the Association to any third party with the agreement of the Borrower.
- (ii) The Guarantor has failed to make payment of principal or interest or any other amount due to the Bank or the Association: (A) under the Guarantee Agreement; or (B) under any other agreement between the Guarantor and the Bank; or (C) under any agreement between the Guarantor and the Association; or (D) in consequence of any guarantee extended or other financial obligation of any kind assumed by the Bank or the Association to any third party with the agreement of the Guarantor.

(b) *Performance Failure.*

- (i) A Loan Party has failed to perform any other obligation under the Legal Agreement to which it is a party or under any Derivatives Agreement.
- (ii) The Project Implementing Entity has failed to perform any obligation under the Project Agreement.

(c) *Fraud and Corruption.* At any time, the Bank determines that any representative of the Guarantor or the Borrower or the Project Implementing Entity (or any other recipient of any of the proceeds of the Loan) has engaged in corrupt, fraudulent, coercive or collusive practices in connection with the use of the proceeds of the Loan, without the Guarantor or the Borrower or the Project Implementing Entity (or any other such recipient) having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur.

(d) *Cross Suspension.* The Bank or the Association has suspended in whole or in part the right of a Loan Party to make withdrawals under any agreement with the Bank or with the Association because of a failure by a Loan Party to perform any of its obligations under such agreement or any other agreement with the Bank.

(e) *Extraordinary Situation.*

- (i) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation has arisen which makes it improbable that the Project can be carried out or that a Loan Party or the Project Implementing Entity will be able to perform its obligations under the Legal Agreement to which it is a party.
- (ii) An extraordinary situation has arisen under which any further withdrawals under the Loan would be inconsistent with the provisions of Article III, Section 3 of the Bank's Articles of Agreement.

(f) *Event Prior to Effectiveness.* The Bank has determined after the Effective Date that prior to such date but after the date of the Loan Agreement, an event has occurred which would have entitled the Bank to suspend the Borrower's right to make withdrawals from the Loan Account if the Loan Agreement had been effective on the date such event occurred.

(g) *Misrepresentation.* A representation made by a Loan Party in or pursuant to the Legal Agreements or in or pursuant to any Derivatives Agreement, or any representation or statement furnished by a Loan Party, and intended to be relied upon by the Bank in making the Loan or executing a transaction under a Derivatives Agreement, was incorrect in any material respect.

(h) *Co-financing.* Any of the following events occurs with respect to any financing specified in the Loan Agreement to be provided for the Project ("Co-financing") by a financier (other than the Bank or the Association) ("Co-financier").

- (i) If the Loan Agreement specifies a date by which the agreement with the Co-financier providing for the Co-financing ("Co-financing Agreement") is to become effective, the Co-financing Agreement has failed to become effective by that date, or such later date as the Bank has established by notice to the Loan Parties ("Co-financing Deadline"); provided, however, that the provisions of this sub-paragraph shall not apply if the Loan Parties establish to the satisfaction of the Bank that adequate funds for the Project are available from other sources on terms and conditions consistent with the obligations of the Loan Parties under the Legal Agreements.
- (ii) Subject to sub-paragraph (iii) of this paragraph: (A) the right to withdraw the proceeds of the Co-financing has been suspended, canceled or terminated in whole or in part, pursuant to the terms of the Co-financing Agreement; or (B) the Co-financing has become due and payable prior to its agreed maturity.
- (iii) Sub-paragraph (ii) of this paragraph shall not apply if the Loan Parties establish to the satisfaction of the Bank that: (A) such suspension, cancellation, termination or prematuring was not caused by the failure of the recipient of the Co-financing to perform any of its obligations under

the Co-financing Agreement; and (B) adequate funds for the Project are available from other sources on terms and conditions consistent with the obligations of the Loan Parties under the Legal Agreements.

(i) *Assignment of Obligations; Disposition of Assets.* The Borrower or the Project Implementing Entity (or any other entity responsible for implementing any part of the Project) has, without the consent of the Bank: (i) assigned or transferred, in whole or in part, any of its obligations arising under or entered into pursuant to the Legal Agreements; or (ii) sold, leased, transferred, assigned, or otherwise disposed of any property or assets financed wholly or in part out of the proceeds of the Loan; provided, however, that the provisions of this paragraph shall not apply with respect to transactions in the ordinary course of business which, in the opinion of the Bank: (A) do not materially and adversely affect the ability of the Borrower or of the Project Implementing Entity (or such other entity) to perform any of its obligations arising under or entered into pursuant to the Legal Agreements or to achieve the objectives of the Project; and (B) do not materially and adversely affect the financial condition or operation of the Borrower (other than the Member Country) or the Project Implementing Entity (or such other entity).

(j) *Membership.* The Member Country: (i) has been suspended from membership in or ceased to be a member of the Bank; or (ii) has ceased to be a member of the International Monetary Fund.

(k) *Condition of Borrower or Project Implementing Entity.*

- (i) Any material adverse change in the condition of the Borrower (other than the Member Country), as represented by it, has occurred prior to the Effective Date.
- (ii) The Borrower (other than the Member Country) has become unable to pay its debts as they mature or any action or proceeding has been taken by the Borrower or by others whereby any of the assets of the Borrower shall or may be distributed among its creditors.
- (iii) Any action has been taken for the dissolution, disestablishment or suspension of operations of the Borrower (other than the Member Country) or of the Project Implementing Entity (or any other entity responsible for implementing any part of the Project).

- (iv) The Borrower (other than the Member Country) or the Project Implementing Entity (or any other entity responsible for implementing any part of the Project) has ceased to exist in the same legal form as that prevailing as of the date of the Loan Agreement.
- (v) In the opinion of the Bank, the legal character, ownership or control of the Borrower (other than the Member Country) or of the Project Implementing Entity (or of any other entity responsible for implementing any part of the Project) has changed from that prevailing as of the date of the Legal Agreements so as to materially and adversely affect the ability of the Borrower or of the Project Implementing Entity (or such other entity) to perform any of its obligations arising under or entered into pursuant to the Legal Agreements, or to achieve the objectives of the Project.

(l) *Ineligibility.* The Bank or the Association has declared the Borrower (other than the Member Country) or the Project Implementing Entity ineligible to receive proceeds of loans made by the Bank or of credits or grants made by the Association or otherwise to participate in the preparation or implementation of any project financed in whole or in part by the Bank or the Association, as a result of a determination by the Bank or the Association that the Borrower or the Project Implementing Entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of a loan made by the Bank or a credit or grant made by the Association.

(m) *Additional Event.* Any other event specified in the Loan Agreement for the purposes of this Section has occurred (“Additional Event of Suspension”).

Section 7.03. *Cancellation by the Bank*

If any of the events specified in paragraphs (a) through (f) of this Section occurs with respect to an amount of the Unwithdrawn Loan Balance, the Bank may, by notice to the Loan Parties, terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice, such amount shall be cancelled.

(a) *Suspension.* The right of the Borrower to make withdrawals from the Loan Account has been suspended with respect to any amount of the Unwithdrawn Loan Balance for a continuous period of thirty days.

(b) *Amounts not Required.* At any time, the Bank determines, after consultation with the Borrower, that an amount of the Unwithdrawn Loan Balance will not be required to finance Eligible Expenditures.

(c) *Fraud and Corruption.* At any time, the Bank determines, with respect to any amount of the proceeds of the Loan, that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Guarantor or the Borrower or the Project Implementing Entity (or other recipient of the proceeds of the Loan) without the Guarantor, the Borrower or the Project Implementing Entity (or other recipient of the proceeds of the Loan) having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur.

(d) *Misprocurement.* At any time, the Bank: (i) determines that the procurement of any contract to be financed out of the proceeds of the Loan is inconsistent with the procedures set forth or referred to in the Legal Agreements; and (ii) establishes the amount of expenditures under such contract which would otherwise have been eligible for financing out of the proceeds of the Loan.

(e) *Closing Date.* After the Closing Date, there remains an Unwithdrawn Loan Balance.

(f) *Cancellation of Guarantee.* The Bank receives notice from the Guarantor pursuant to Section 7.05 with respect to an amount of the Loan.

*Section 7.04. Amounts Subject to Special Commitment not Affected by Cancellation or Suspension by the Bank*

No cancellation or suspension by the Bank shall apply to amounts of the Loan subject to any Special Commitment except as expressly provided in the Special Commitment.

*Section 7.05. Cancellation of Guarantee*

If the Borrower has failed to pay any required Loan Payment (otherwise than as a result of any act or omission to act of the Guarantor) and such payment is made by the Guarantor, the Guarantor may, after consultation with the Bank, by notice to the Bank and the Borrower, terminate its obligations under the

Guarantee Agreement with respect to any amount of the Unwithdrawn Loan Balance as at the date of receipt of such notice by the Bank; provided that such amount is not subject to any Special Commitment. Upon receipt of such notice by the Bank, such obligations in respect of such amount shall terminate.

Section 7.06. *Events of Acceleration*

If any of the events specified in paragraphs (a) through (f) of this Section occurs and continues for the period specified (if any), then at any subsequent time during the continuance of the event, the Bank may, by notice to the Loan Parties, declare all or part of the Withdrawn Loan Balance as at the date of such notice to be due and payable immediately together with any other Loan Payments due under the Loan Agreement or these General Conditions. Upon any such declaration, such Withdrawn Loan Balance and Loan Payments shall become immediately due and payable.

(a) *Payment Default.* A default has occurred in the payment by a Loan Party of any amount due to the Bank or the Association: (i) under any Legal Agreement; or (ii) under any other agreement between the Bank and the Loan Party; or (iii) under any agreement between the Loan Party and the Association (in the case of an agreement between the Guarantor and the Association, under circumstances which would make it unlikely that the Guarantor would meet its obligations under the Guarantee Agreement); or (iv) in consequence of any guarantee extended or other financial obligation of any kind assumed by the Bank or the Association to any third party with the agreement of the Loan Party; and such default continues in each case for a period of thirty days.

(b) *Performance Default.*

- (i) A default has occurred in the performance by a Loan Party of any other obligation under the Legal Agreement to which it is a party or under any Derivatives Agreement, and such default continues for a period of sixty days after notice of such default has been given by the Bank to the Loan Parties.
- (ii) A default has occurred in the performance by the Project Implementing Entity of any obligation under the Project Agreement, and such default continues for a period of sixty days after notice of such default has been given by the Bank to the Project Implementing Entity and the Loan Parties.



(c) *Co-financing.* The event specified in sub-paragraph (h) (ii) (B) of Section 7.02 has occurred, subject to the proviso of paragraph (h) (iii) of that Section.

(d) *Assignment of Obligations; Disposition of Assets.* Any event specified in paragraph (i) of Section 7.02 has occurred.

(e) *Condition of Borrower or Project Implementing Entity.* Any event specified in sub-paragraph (k) (ii), (k) (iii), (k) (iv) or (k) (v) of Section 7.02 has occurred.

(f) *Additional Event.* Any other event specified in the Loan Agreement for the purposes of this Section has occurred and continues for the period, if any, specified in the Loan Agreement (“Additional Event of Acceleration”).

Section 7.07. *Acceleration during a Conversion Period*

If the Loan Agreement provides for Conversions, and if any notice of acceleration is given pursuant to Section 7.06 during the Conversion Period for any Conversion: (a) the Borrower shall pay a transaction fee in respect of any early termination of the Conversion, in such amount or at such rate as announced by the Bank from time to time and in effect on the date of such notice; and (b) the Borrower shall pay any Unwinding Amount owed by it in respect of any early termination of the Conversion, or the Bank shall pay any Unwinding Amount owed by it in respect of any such early termination (after setting off any amounts owed by the Borrower under the Loan Agreement), in accordance with the Conversion Guidelines.

Section 7.08. *Effectiveness of Provisions after Cancellation, Suspension or Acceleration*

Notwithstanding any cancellation, suspension or acceleration under this Article, all the provisions of the Legal Agreements shall continue in full force and effect except as specifically provided in these General Conditions.

## ARTICLE VIII

### Enforceability; Arbitration

#### Section 8.01. *Enforceability*

The rights and obligations of the Bank and the Loan Parties under the Legal Agreements shall be valid and enforceable in accordance with their terms notwithstanding the law of any state or political subdivision thereof to the contrary. Neither the Bank nor any Loan Party shall be entitled in any proceeding under this Article to assert any claim that any provision of these General Conditions or of the Legal Agreements is invalid or unenforceable because of any provision of the Articles of Agreement of the Bank.

#### Section 8.02. *Obligations of the Guarantor*

Except as provided in Section 7.05, the obligations of the Guarantor under the Guarantee Agreement shall not be discharged except by performance, and then only to the extent of such performance. Such obligations shall not require any prior notice to, demand upon or action against the Borrower or any prior notice to or demand upon the Guarantor with regard to any default by the Borrower. Such obligations shall not be impaired by any of the following: (a) any extension of time, forbearance or concession given to the Borrower; (b) any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or in respect of any security for the Loan; (c) any modification or amplification of the provisions of the Loan Agreement contemplated by its terms; or (d) any failure of the Borrower or of the Project Implementing Entity to comply with any requirement of any law of the Member Country.

#### Section 8.03. *Failure to Exercise Rights*

No delay in exercising, or omission to exercise, any right, power or remedy accruing to any party under any Legal Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default. No action of such party in respect of any default, or any acquiescence by it in any default, shall affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

Section 8.04. *Arbitration*

(a) Any controversy between the parties to the Loan Agreement or the parties to the Guarantee Agreement, and any claim by any such party against any other such party arising under the Loan Agreement or the Guarantee Agreement which has not been settled by agreement of the parties shall be submitted to arbitration by an arbitral tribunal as hereinafter provided ("Arbitral Tribunal").

(b) The parties to such arbitration shall be the Bank on the one side and the Loan Parties on the other side.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: (i) one arbitrator shall be appointed by the Bank; (ii) a second arbitrator shall be appointed by the Loan Parties or, if they do not agree, by the Guarantor; and (iii) the third arbitrator ("Umpire") shall be appointed by agreement of the parties or, if they do not agree, by the President of the International Court of Justice or, failing appointment by said President, by the Secretary-General of the United Nations. If either side fails to appoint an arbitrator, such arbitrator shall be appointed by the Umpire. In case any arbitrator appointed in accordance with this Section resigns, dies or becomes unable to act, a successor arbitrator shall be appointed in the same manner as prescribed in this Section for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty days after such notice, the other party shall notify to the party instituting the proceeding the name of the arbitrator appointed by such other party.

(e) If within sixty days after the notice instituting the arbitration proceeding, the parties have not agreed upon an Umpire, any party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) The Arbitral Tribunal shall decide all questions relating to its competence and shall, subject to the provisions of this Section and except as the

parties shall otherwise agree, determine its procedure. All decisions of the Arbitral Tribunal shall be by majority vote.

(h) The Arbitral Tribunal shall afford to all parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of the Arbitral Tribunal. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to the Loan Agreement and the Guarantee Agreement. Each party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this Section.

(i) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as are required for the conduct of the arbitration proceedings. If the parties do not agree on such amount before the Arbitral Tribunal convenes, the Arbitral Tribunal shall fix such amount as shall be reasonable under the circumstances. The Bank, the Borrower and the Guarantor shall each defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between and borne equally by the Bank on the one side and the Loan Parties on the other. Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

(j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the settlement of controversies between the parties to the Loan Agreement and Guarantee Agreement or of any claim by any such party against any other such party arising under such Legal Agreements.

(k) If, within thirty days after counterparts of the award have been delivered to the parties, the award has not been complied with, any party may: (i) enter judgment upon, or institute a proceeding to enforce, the award in any court of competent jurisdiction against any other party; (ii) enforce such judgment by execution; or (iii) pursue any other appropriate remedy against such other party for the enforcement of the award and the provisions of the Loan Agreement or Guarantee Agreement. Notwithstanding the foregoing, this Section shall not authorize any entry of judgment or enforcement of the award against the Member Country except as such procedure may be available otherwise than by reason of the provisions of this Section.

(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce

any award rendered pursuant to this Section may be made in the manner provided in Section 10.01. The parties to the Loan Agreement and the Guarantee Agreement waive any and all other requirements for the service of any such notice or process.

## ARTICLE IX

### Effectiveness; Termination

#### Section 9.01. *Conditions of Effectiveness of Legal Agreements*

The Legal Agreements shall not become effective until evidence satisfactory to the Bank has been furnished to the Bank that the conditions specified in paragraphs (a) through (c) of this Section have been satisfied.

(a) The execution and delivery of each Legal Agreement on behalf of the Loan Party or the Project Implementing Entity which is a party to such Legal Agreement have been duly authorized or ratified by all necessary governmental and corporate action.

(b) If the Bank so requests, the condition of the Borrower (other than the Member Country) or of the Project Implementing Entity, as represented or warranted to the Bank at the date of the Legal Agreements, has undergone no material adverse change after such date.

(c) Each other condition specified in the Loan Agreement as a condition of its effectiveness has occurred ("Additional Condition of Effectiveness").

#### Section 9.02. *Legal Opinions or Certificates*

As part of the evidence to be furnished pursuant to Section 9.01, there shall be furnished to the Bank an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank or, if the Bank so requests, a certificate satisfactory to the Bank of a competent official of the Member Country showing the following matters:

(a) on behalf of each Loan Party and the Project Implementing Entity, that the Legal Agreement to which it is a party has been duly authorized or ratified by, and executed and delivered on behalf of, such party and is legally binding upon such party in accordance with its terms; and

(b) each other matter specified in the Loan Agreement or reasonably requested by the Bank in connection with the Legal Agreements for the purpose of this Section ("Additional Legal Matter").

Section 9.03. *Effective Date*

(a) Except as the Bank and the Borrower shall otherwise agree, the Legal Agreements shall enter into effect on the date upon which the Bank dispatches to the Loan Parties and the Project Implementing Entity notice of its acceptance of the evidence required pursuant to Section 9.01 ("Effective Date").

(b) If, before the Effective Date, any event has occurred which would have entitled the Bank to suspend the right of the Borrower to make withdrawals from the Loan Account if the Loan Agreement had been effective, or the Bank has determined that an extraordinary situation provided for under Section 3.08 (a) exists, the Bank may postpone the dispatch of the notice referred to in paragraph (a) of this Section until such event (or events) or situation has (or have) ceased to exist.

Section 9.04. *Termination of Legal Agreements for Failure to Become Effective*

The Legal Agreements and all obligations of the parties under the Legal Agreements shall terminate if the Legal Agreements have not entered into effect by the date ("Effectiveness Deadline") specified in the Loan Agreement for the purpose of this Section, unless the Bank, after consideration of the reasons for the delay, establishes a later Effectiveness Deadline for the purpose of this Section. The Bank shall promptly notify the Loan Parties and Project Implementing Entity of such later Effectiveness Deadline.

Section 9.05. *Termination of Legal Agreements on Full Payment*

The Legal Agreements and all obligations of the parties under the Legal Agreements shall forthwith terminate upon full payment of the Withdrawn Loan Balance and all other Loan Payments due.

## ARTICLE X

### Miscellaneous Provisions

Section 10.01. *Notices and Requests*

Any notice or request required or permitted to be given or made under any Legal Agreement or any other agreement between the parties contemplated by the

Legal Agreement shall be in writing. Except as otherwise provided in Section 9.03 (a), such notice or request shall be deemed to have been duly given or made when it has been delivered by hand or by mail, telex or facsimile (or, if permitted under the Legal Agreement, by other electronic means) to the party to which it is required or permitted to be given or made at such party's address specified in the Legal Agreement or at such other address as such party shall have designated by notice to the party giving such notice or making such request. Deliveries made by facsimile transmission shall also be confirmed by mail.

*Section 10.02. Action on Behalf of the Loan Parties and the Project Implementing Entity*

(a) The representative designated by a Loan Party in the Legal Agreement to which it is a party (and the representative designated by the Project Implementing Entity in the Project Agreement) for the purpose of this Section, or any person authorized in writing by such representative for that purpose, may take any action required or permitted to be taken pursuant to such Legal Agreement, and execute any documents required or permitted to be executed pursuant to such Legal Agreement, on behalf of such Loan Party (or the Project Implementing Entity, as the case may be).

(b) The representative so designated by the Loan Party or person so authorized by such representative may agree to any modification or amplification of the provisions of such Legal Agreement on behalf of such Loan Party by written instrument executed by such representative or authorized person; provided that, in the opinion of such representative, the modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of the Loan Parties under the Legal Agreements. The Bank may accept the execution by such representative or other authorized person of any such instrument as conclusive evidence that such representative is of such opinion.

*Section 10.03. Evidence of Authority*

The Loan Parties and the Project Implementing Entity shall furnish to the Bank: (a) sufficient evidence of the authority of the person or persons who will, on behalf of such party, take any action or execute any documents required or permitted to be taken or executed by it under the Legal Agreement to which it is a party; and (b) the authenticated specimen signature of each such person.

Section 10.04. *Execution in Counterparts*

Each Legal Agreement may be executed in several counterparts, each of which shall be an original.



## APPENDIX

### Definitions

1. "Additional Condition of Effectiveness" means any condition of effectiveness specified in the Loan Agreement for the purpose of Section 9.01 (c).
2. "Additional Event of Acceleration" means any event of acceleration specified in the Loan Agreement for the purpose of Section 7.06 (f).
3. "Additional Event of Suspension" means any event of suspension specified in the Loan Agreement for the purpose of Section 7.02 (m).
4. "Additional Legal Matter" means each matter specified in the Loan Agreement or requested by the Bank in connection with the Legal Agreements for the purpose of Section 9.02 (b).
5. "Approved Currency" means, for a Currency Conversion, any Currency approved by the Bank, which, upon the Conversion, becomes the Loan Currency.
6. "Arbitral Tribunal" means the arbitral tribunal established pursuant to Section 8.04.
7. "Assets" includes property, revenue and claims of any kind.
8. "Association" means the International Development Association.
9. "Bank" means the International Bank for Reconstruction and Development.
10. "Bank's Address" means the Bank's address specified in the Legal Agreements for the purpose of Section 10.01.
11. "Borrower" means the party to the Loan Agreement to which the Loan is extended.
12. "Borrower's Address" means the Borrower's address specified in the Loan Agreement for the purpose of Section 10.01.
13. "Borrower's Representative" means the Borrower's representative specified in the Loan Agreement for the purpose of Section 10.02.

14. "Closing Date" means the date specified in the Loan Agreement (or such later date as the Bank shall establish by notice to the Loan Parties) after which the Bank may, by notice to the Loan Parties, terminate the right of the Borrower to withdraw from the Loan Account.
15. "Co-financier" means the financier (other than the Bank or the Association) referred to in Section 7.02 (h) providing the Co-financing. If the Loan Agreement specifies more than one such financier, "Co-financier" refers separately to each of such financiers.
16. "Co-financing" means the financing referred to in Section 7.02 (h) and specified in the Loan Agreement provided or to be provided for the Project by the Co-financier. If the Loan Agreement specifies more than one such financing, "Co-financing" refers separately to each of such financings.
17. "Co-financing Agreement" means the agreement referred to in Section 7.02 (h) providing for the Co-financing.
18. "Co-financing Deadline" means the date referred to in Section 7.02 (h) (i) and specified in the Loan Agreement by which the Co-financing Agreement is to become effective. If the Loan Agreement specifies more than one such date, "Co-financing Deadline" refers separately to each of such dates.
19. "Conversion" means any of the following modifications of the terms of all or any portion of the Loan that has been requested by the Borrower and accepted by the Bank: (a) an Interest Rate Conversion; (b) a Currency Conversion; or (c) the establishment of an Interest Rate Cap or Interest Rate Collar on the Variable Rate; each as provided in the Loan Agreement.
20. "Conversion Date" means, for a Conversion, the Payment Date (or, in the case of a Currency Conversion of an amount of the Unwithdrawn Loan Balance, such other date as the Bank shall determine) on which the Conversion enters into effect, as further specified in the Conversion Guidelines.
21. "Conversion Guidelines" means, for a Conversion, the "Guidelines for Conversion of Loan Terms" issued from time to time by the Bank and in effect at the time of the Conversion.

22. "Conversion Period" means, for a Conversion, the period from and including the Conversion Date to and including the last day of the Interest Period in which the Conversion terminates by its terms; provided, that solely for the purpose of enabling the final payment of interest and principal under a Currency Conversion to be made in the Approved Currency, such period shall end on the Payment Date immediately following the last day of said final applicable Interest Period.
23. "Counterparty" means a party with which the Bank enters into a derivatives transaction in order to effect a Conversion.
24. "Currency" means the currency of a country and the Special Drawing Right of the International Monetary Fund. "Currency of a country" means the currency which is legal tender for the payment of public and private debts in that country.
25. "Currency Conversion" means a change of the Loan Currency of all or any amount of the Unwithdrawn Loan Balance or the Withdrawn Loan Balance to an Approved Currency.
26. "Currency Hedge Transaction" means, for a Currency Conversion, one or more Currency swap transactions entered into by the Bank with a Counterparty as of the Execution Date and in accordance with the Conversion Guidelines, in connection with the Currency Conversion.
27. "Default Interest Period" means for any overdue amount of the Withdrawn Loan Balance, each Interest Period during which such overdue amount remains unpaid; provided, however, that the first such Default Interest Period shall commence on the 31<sup>st</sup> day following the date on which such amount becomes overdue, and the final such Default Interest Period shall end on the date at which such amount is fully paid.
28. "Default Interest Rate" means for any Default Interest Period:
  - (a) in respect of any amount of the Withdrawn Loan Balance to which the Default Interest Rate applies and for which interest was payable at a Variable Rate immediately prior to the application of the Default Interest Rate: the Default Variable Rate plus one half of one percent (0.5%); and
  - (b) in respect of any amount of the Withdrawn Loan Balance to which the Default Interest Rate applies and for which interest was

payable at a Fixed Rate immediately prior to the application of the Default Interest Rate: Default LIBOR plus the Fixed Spread plus one half of one percent (0.5%).

29. "Default LIBOR" means LIBOR for the relevant Interest Period; it being understood that for the initial Default Interest Period, Default LIBOR shall be equal to LIBOR for the Interest Period in which the amount referred to in Section 3.02 (d) first becomes overdue.
30. "Default Variable Rate" means the Variable Rate for the relevant Interest Period; it being understood that for the initial Default Interest Period, Default Variable Rate shall be equal to the Variable Rate for the Interest Period in which the amount referred to in Section 3.02 (d) first becomes overdue.
31. "Derivatives Agreement" means any derivatives agreement between the Bank and a Loan Party for the purpose of documenting and confirming one or more derivatives transactions between the Bank and such Loan Party, as such agreement may be amended from time to time. "Derivatives Agreement" includes all schedules, annexes and agreements supplemental to the Derivatives Agreement.
32. "Disbursed Amount" means, for each Interest Period, the aggregate principal amount of the Loan withdrawn from the Loan Account during the Interest Period.
33. "Dollar", "\$" and "USD" each means the lawful currency of the United States of America.
34. "Effective Date" means the date on which the Legal Agreements enter into effect pursuant to Section 9.03 (a).
35. "Effectiveness Deadline" means the date referred to in Section 9.04 after which the Legal Agreements shall terminate if they have not entered into effect as provided in that Section.
36. "Eligible Expenditure" means an expenditure the payment for which meets the requirements of Section 2.05 and which is consequently eligible for financing out of the proceeds of the Loan.

37. “Euro”, “€” and “EUR” each means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union.
38. “Execution Date” means, for a Conversion, the date on which the Bank has undertaken all actions necessary to effect the Conversion, as reasonably determined by the Bank.
39. “External Debt” means any debt which is or may become payable in a Currency other than the Currency of the Member Country.
40. “Financial Center” means: (a) for a Currency other than Euro, the principal financial center for the relevant Currency; and (b) for the Euro, the principal financial center of any of the member states of the European Union that adopt the Euro.
41. “Financial Statements” means the financial statements to be maintained for the Project as provided in Section 5.09.
42. “Fixed Rate” means:
- (a) upon an Interest Rate Conversion from the Variable Rate, a fixed rate of interest applicable to the amount of the Loan to which the Conversion applies, equal to either: (i) the interest rate that reflects the fixed rate of interest payable by the Bank under the Interest Hedge Transaction relating to the Conversion (adjusted in accordance with the Conversion Guidelines for the difference, if any, between the Variable Rate and the variable rate of interest receivable by the Bank under the Interest Hedge Transaction); or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the Screen Rate; and
  - (b) upon a Currency Conversion of an amount of the Loan that shall accrue interest at a fixed rate during the Conversion Period, a fixed rate of interest applicable to such amount equal to either: (i) the interest rate that reflects the fixed rate of interest payable by the Bank under the Currency Hedge Transaction relating to the Currency Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the interest rate component of the Screen Rate.

43. "Fixed Spread" means the Bank's fixed spread for the initial Loan Currency in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement; provided, that: (a) for purposes of determining the Default Interest Rate, pursuant to Section 3.02 (d), that is applicable to an amount of the Withdrawn Loan Balance on which interest is payable at a Fixed Rate, the "Fixed Spread" means the Bank's fixed spread in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement, for the Currency of denomination of such amount; (b) for purposes of fixing the Variable Spread pursuant to Section 4.02, "Fixed Spread" means the Bank's fixed spread for the Loan Currency in effect at 12:01 a.m. Washington, D.C. time on the Conversion Date; and (c) upon a Currency Conversion of all or any amount of the Unwithdrawn Loan Balance pursuant to Section 4.04 (a), the Fixed Spread shall be adjusted on the Execution Date in the manner specified in the Conversion Guidelines.
44. "Foreign Expenditure" means an expenditure in the Currency of any country other than the Member Country for goods, works or services supplied from the territory of any country other than the Member Country.
45. "Front-end Fee" means the fee specified in the Loan Agreement for the purpose of Section 3.01.
46. "Guarantee Agreement" means the agreement between the Member Country and the Bank providing for the guarantee of the Loan, as such agreement may be amended from time to time. "Guarantee Agreement" includes these General Conditions as applied to the Guarantee Agreement, and all appendices, schedules and agreements supplemental to the Guarantee Agreement.
47. "Guarantor" means the Member Country which is a party to the Guarantee Agreement.
48. "Guarantor's Address" means the Guarantor's address specified in the Guarantee Agreement for the purpose of Section 10.01.
49. "Guarantor's Representative" means the Guarantor's representative specified in the Loan Agreement for the purpose of Section 10.02.
50. "Incurring of debt" includes the assumption or guarantee of debt and any renewal, extension, or modification of the terms of the debt or of the assumption or guarantee of the debt.

51. "Interest Hedge Transaction" means, for an Interest Rate Conversion, one or more interest rate swap transactions entered into by the Bank with a Counterparty as of the Execution Date and in accordance with the Conversion Guidelines, in connection with the Interest Rate Conversion.
52. "Interest Period" means the initial period from and including the date of the Loan Agreement to but excluding the first Payment Date occurring thereafter, and after the initial period, each period from and including a Payment Date to but excluding the next following Payment Date.
53. "Interest Rate Cap" means a ceiling that sets an upper limit for the Variable Rate.
54. "Interest Rate Collar" means a combination of a ceiling and a floor that sets an upper and a lower limit for the Variable Rate.
55. "Interest Rate Conversion" means a change of the interest rate basis applicable to all or any amount of the Withdrawn Loan Balance, from the Variable Rate to the Fixed Rate or vice versa.
56. "Legal Agreement" means any of the Loan Agreement, the Guarantee Agreement or the Project Agreement. "Legal Agreements" means collectively, all of such agreements.
57. "LIBOR" means, for any Interest Period, the London interbank offered rate for six-month deposits in the Loan Currency, expressed as a percentage per annum, that appears on the Relevant Telerate Page as of 11:00 a.m., London time, on the LIBOR Reset Date for the Interest Period. If such rate does not appear on the Relevant Telerate Page, the Bank shall request the principal London office of each of four major banks to provide a quotation of the rate at which it offers six-month deposits in the Loan Currency to leading banks in the London interbank market at approximately 11:00 a.m. London time on the LIBOR Reset Date for the Interest Period. If at least two such quotations are provided, the rate for the Interest Period shall be the arithmetic mean (as determined by the Bank) of the quotations. If less than two quotations are provided as requested, the rate for the Interest Period shall be the arithmetic mean (as determined by the Bank) of the rates quoted by four major banks selected by the Bank in the relevant Financial Center, at approximately 11:00 a.m. in the Financial Center, on the LIBOR Reset Date for the Interest Period for loans in the Loan Currency to leading banks for a period of six months. If less than two of the banks so selected are quoting such rates, LIBOR for the Interest

Period shall be equal to LIBOR in effect for the Interest Period immediately preceding it.

58. "LIBOR Reset Date" means:

- (a) for any Loan Currency other than Euro, the day two London Banking Days prior to the first day of the relevant Interest Period (or: (i) in the case of the initial Interest Period, the day two London Banking Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the LIBOR Reset Date shall be the day two London Banking Days prior to the date of the Loan Agreement; and (ii) if the Conversion Date of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to any Approved Currency other than Euro falls on a day other than a Payment Date, the initial LIBOR Reset Date for the Approved Currency shall be the day two London Banking Days prior to the first or fifteenth day of the month in which the Conversion Date falls, whichever day immediately precedes the Conversion Date; provided, that if the Conversion Date falls on the first or fifteenth day of such month, the LIBOR Reset Date for the Approved Currency shall be the day two London Banking Days prior to the Conversion Date);
- (b) for Euro, the day two Target Settlement Days prior to the first day of the relevant Interest Period (or: (i) in the case of the initial Interest Period the day two Target Settlement Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the LIBOR Reset Date shall be the day two Target Settlement Days prior to the date of the Loan Agreement; and (ii) if the Conversion Date of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to Euro falls on a day other than a Payment Date, the initial LIBOR Reset Date for the Approved Currency shall be the day two Target Settlement Days prior to the first or fifteenth day of the month in which the Conversion Date falls, whichever day immediately precedes the Conversion Date; provided that if the Conversion Date falls on the first or fifteenth day of such month, the LIBOR



Reset Date for the Approved Currency shall be the day two Target Settlement Days prior to the Conversion Date); and

- (c) notwithstanding sub-paragraphs (a) and (b) of this paragraph, if, for a Currency Conversion to an Approved Currency, the Bank determines that market practice for the determination of the LIBOR Reset Date is on a date other than as set forth in said sub-paragraphs, the LIBOR Reset Date shall be such other date, as further specified in the Conversion Guidelines.
- 59. "Lien" includes mortgages, pledges, charges, privileges and priorities of any kind.
  - 60. "Loan" means the loan provided for in the Loan Agreement.
  - 61. "Loan Account" means the account opened by the Bank in its books in the name of the Borrower to which the amount of the Loan is credited.
  - 62. "Loan Agreement" means the loan agreement between the Bank and the Borrower providing for the Loan, as such agreement may be amended from time to time. "Loan Agreement" includes these General Conditions as applied to the Loan Agreement, and all appendices, schedules and agreements supplemental to the Loan Agreement.
  - 63. "Loan Currency" means the Currency in which the Loan is denominated; provided that if the Loan Agreement provides for Conversions, "Loan Currency" means the Currency in which the Loan is denominated from time to time. If the Loan is denominated in more than one currency, "Loan Currency" refers separately to each of such Currencies.
  - 64. "Loan Party" means the Borrower or the Guarantor. "Loan Parties" means collectively, the Borrower and the Guarantor.
  - 65. "Loan Payment" means any amount payable by the Loan Parties to the Bank pursuant to the Legal Agreements or these General Conditions, including (but not limited to) any amount of the Withdrawn Loan Balance, interest, the Front-end Fee, interest at the Default Interest Rate (if any), any prepayment premium, any transaction fee for a Conversion or early termination of a Conversion, any premium payable upon the establishment of an Interest Rate Cap or Interest Rate Collar, and any Unwinding Amount payable by the Borrower.

66. "Local Expenditure" means an expenditure: (a) in the Currency of the Member Country; or (b) for goods, works or services supplied from the territory of the Member Country; provided, however, that if the Currency of the Member Country is also that of another country from which goods, works or services are supplied, an expenditure in such Currency for such goods, works or services shall be deemed to be a Foreign Expenditure.
67. "London Banking Day" means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign Currency deposits) in London.
68. "Maturity Fixing Date" means, for each Disbursed Amount, the first day of the Interest Period next following the Interest Period in which the Disbursed Amount is withdrawn.
69. "Member Country" means the member of the Bank which is the Borrower or the Guarantor.
70. "Payment Date" means each date specified in the Loan Agreement occurring on or after the date of the Loan Agreement on which interest is payable.
71. "Principal Payment Date" means each date specified in the Loan Agreement on which all or any portion of the principal amount of the Loan is payable.
72. "Project" means the project described in the Loan Agreement, for which the Loan is extended, as the description of such project may be amended from time to time by agreement between the Bank and the Borrower.
73. "Project Agreement" means the agreement between the Bank and the Project Implementing Entity relating to the implementation of all or part of the Project, as such agreement may be amended from time to time. "Project Agreement" includes these General Conditions as applied to the Project Agreement, and all appendices, schedules and agreements supplemental to the Project Agreement.
74. "Project Implementing Entity" means a legal entity (other than the Borrower or the Guarantor) which is responsible for implementing all or a part of the Project and which is a party to the Project Agreement. If the

Bank enters into a Project Agreement with more than one such entity, "Project Implementing Entity" refers separately to each such entity.

75. "Project Implementing Entity's Address" means the Project Implementing Entity's address specified in the Project Agreement for the purpose of Section 10.01.
76. "Project Implementing Entity's Representative" means the Project Implementing Entity's representative specified in the Project Agreement for the purpose of Section 10.02 (a).
77. "Project Preparation Advance" means the advance for the preparation of the Project referred to in the Loan Agreement and repayable in accordance with Section 2.07 (a).
78. "Project Report" means each report on the Project to be prepared and furnished to the Bank pursuant to Section 5.08 (b).
79. "Public Assets" means assets of the Member Country, of any of its political or administrative subdivisions and of any entity owned or controlled by, or operating for the account or benefit of, the Member Country or any such subdivision, including gold and foreign exchange assets held by any institution performing the functions of a central bank or exchange stabilization fund, or similar functions, for the Member Country.
80. "Relevant Telerate Page" means the display page designated on the Dow Jones Telerate Service as the page for the purpose of displaying LIBOR for deposits in the Loan Currency (or such other page as may replace such page on such service, or such other service as may be selected by the Bank as the information vendor, for the purpose of displaying rates or prices comparable to LIBOR).
81. "Respective Part of the Project" means, for the Borrower and for any Project Implementing Entity, the part of the Project specified in the Legal Agreements to be carried out by it.
82. "Screen Rate" means:
  - (a) for an Interest Rate Conversion from the Variable Rate to the Fixed Rate, the fixed rate of interest determined by the Bank on the Execution Date on the basis of the Variable Rate and market rates displayed by established information vendors reflecting the

Conversion Period, the Currency amount and the repayment provisions of the amount of the Loan to which the Conversion applies;

- (b) for an Interest Rate Conversion from the Fixed Rate to the Variable Rate, the variable rate of interest determined by the Bank on the Execution Date on the basis of the Fixed Rate and market rates displayed by established information vendors reflecting the Conversion Period, the Currency amount and the repayment provisions of the amount of the Loan to which the Conversion applies;
- (c) for a Currency Conversion of an amount of the Unwithdrawn Loan Balance, the exchange rate between the Loan Currency immediately prior to the Conversion and the Approved Currency, determined by the Bank on the Execution Date on the basis of market exchange rates displayed by established information vendors;
- (d) for a Currency Conversion of an amount of the Withdrawn Loan Balance, each of: (i) the exchange rate between the Loan Currency immediately prior to the Conversion and the Approved Currency, determined by the Bank on the Execution Date on the basis of market exchange rates displayed by established information vendors; and (ii) the fixed rate of interest or the variable rate of interest (whichever applies to the Conversion), determined by the Bank on the Execution Date in accordance with the Conversion Guidelines on the basis of the interest rate applicable to such amount immediately prior to the Conversion and market rates displayed by established information vendors reflecting the Conversion Period, the Currency amount and the repayment provisions of the amount of the Loan to which the Conversion applies; and
- (e) for the early termination of a Conversion, each of the rates applied by the Bank for the purpose of calculating the Unwinding Amount as of the date of such early termination in accordance with the Conversion Guidelines on the basis of market rates displayed by established information vendors reflecting the remaining Conversion Period, Currency amount and repayment provisions of the amount of the Loan to which the Conversion and such early termination apply.

83. "Special Commitment" means any special commitment entered into or to be entered into by the Bank pursuant to Section 2.02.
84. "Target Settlement Day" means any day on which the Trans European Automated Real-Time Gross Settlement Express Transfer system is open for the settlement of Euro.
85. "Taxes" includes imposts, levies, fees and duties of any nature whether in effect at the date of the Legal Agreements or imposed after that date.
86. "Umpire" means the third arbitrator appointed pursuant to Section 8.04 (c).
87. "Unwinding Amount" means, for the early termination of a Conversion: (a) an amount payable by the Borrower to the Bank equal to the net aggregate amount payable by the Bank under transactions undertaken by the Bank to terminate the Conversion, or if no such transactions are undertaken, an amount determined by the Bank on the basis of the Screen Rate, to represent the equivalent of such net aggregate amount; or (b) an amount payable by the Bank to the Borrower equal to the net aggregate amount receivable by the Bank under transactions undertaken by the Bank to terminate the Conversion, or if no such transactions are undertaken, an amount determined by the Bank on the basis of the Screen Rate, to represent the equivalent of such net aggregate amount.
88. "Unwithdrawn Loan Balance" means the amount of the Loan remaining unwithdrawn from the Loan Account from time to time.
89. "Variable Rate" means a variable rate of interest equal to the sum of: (1) LIBOR for the initial Loan Currency; plus (2) the Variable Spread, if interest accrues at a rate based on the Variable Spread, or the Fixed Spread if interest accrues at a rate based on the Fixed Spread; provided, that:
- (a) upon an Interest Rate Conversion from the Fixed Rate, the "Variable Rate" applicable to the amount of the Loan to which the Conversion applies shall be equal to either: (i) the sum of: (A) LIBOR for the Loan Currency; plus (B) the spread to LIBOR, if any, payable by the Bank under the Interest Hedge Transaction relating to the Conversion (adjusted in accordance with the Conversion Guidelines for the difference, if any, between the Fixed Rate and the fixed rate of interest receivable by the Bank under the Interest Hedge Transaction); or (ii) if the Bank so

determines in accordance with the Conversion Guidelines, the Screen Rate;

- (b) upon a Currency Conversion to an Approved Currency of an amount of the Unwithdrawn Loan Balance, and upon withdrawal of any of such amount, the "Variable Rate" applicable to such amount shall be equal to the sum of: (i) LIBOR for the Approved Currency; plus (ii) the Variable Spread if such amount accrues interest at a rate based on the Variable Spread, or the Fixed Spread if such amount accrues interest at a rate based on the Fixed Spread; and
  - (c) upon a Currency Conversion to an Approved Currency of an amount of the Withdrawn Loan Balance that accrues interest at a variable rate during the Conversion Period, the "Variable Rate" applicable to such amount shall be equal to either: (i) the sum of (A) LIBOR for the Approved Currency; plus (B) the spread to LIBOR, if any, payable by the Bank under the Currency Hedge Transaction relating to the Currency Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the interest rate component of the Screen Rate.
90. "Variable Spread" means, for each Interest Period: (1) the Bank's standard variable spread for Loans in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement.; (2) minus (or plus) the weighted average margin, for the Interest Period, below (or above) LIBOR, or other reference rates, for six-month deposits, in respect of the Bank's outstanding borrowings or portions thereof allocated by it to fund loans that carry interest at a rate based on the Variable Spread; as reasonably determined by the Bank and expressed as a percentage per annum. In the case of a Loan denominated in more than one Currency, "Variable Spread" applies separately to each of such Currencies.
91. "Variable Spread Fixing Charge" means, for a Conversion of all or any portion of the Loan that accrues interest at a rate based on the Variable Spread, the Bank's charge for such a Conversion in effect 12:01 a.m. Washington, D.C. time, one calendar day prior to the execution of the Conversion.
92. "Withdrawn Loan Balance" means the amounts of the Loan withdrawn from the Loan Account and outstanding from time to time.

93. “Yen”, “¥” and “JPY” each means the lawful currency of Japan





# **GUIDELINES: SELECTION AND EMPLOYMENT OF CONSULTANTS BY WORLD BANK BORROWERS**

May 2004

Revised October 1, 2006

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## Acronyms

CQS	Selection Based on Consultants' Qualifications
FBS	Selection under a Fixed Budget
IBRD	International Bank for Reconstruction and Development (World Bank)
IDA	International Development Association
ITC	Instructions to Consultants
LCS	Least-Cost Selection
LOI	Letter of Invitation
MOS	Monthly Operational Summary
NGO	Nongovernment Organization
PAD	Project Appraisal Document
PAs	Procurement Agents
PID	Project Information Document
QBS	Quality-Based Selection
QCBS	Quality- and Cost-Based Selection
RFP	Request for Proposal
SSS	Single-Source Selection
SWAps	Sector Wide Approaches
TOR	Terms of Reference
UN	United Nations
UNDB	United Nations Development Business

## I. INTRODUCTION

### Purpose

1.1 The purpose of these Guidelines is to define the Bank's policies and procedures for selecting, contracting, and monitoring consultants required for projects that are financed in whole or in part by loans from the International Bank for Reconstruction and Development (IBRD), credits or grants from the International Development Association (IDA),<sup>1</sup> or grants from the Bank or trust funds<sup>2</sup> administered by the Bank and executed by the beneficiary.

1.2 The Loan Agreement governs the legal relationships between the Borrower and the Bank, and the Guidelines apply to the selection and employment of consultants for the project as provided in the Agreement. The rights and obligations of the Borrower<sup>3</sup> and the consultant are governed by the specific Request for Proposals (RFP)<sup>4</sup> issued by the Borrower and by the contract signed by the Borrower with the consultant, and not by these Guidelines or the Loan Agreement. No party other than the parties to the Loan Agreement shall derive any rights therefrom or have any claim to loan proceeds.

1.3 For the purpose of these Guidelines, the term *consultants* includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, United Nations (UN) agencies and other multinational organizations, investment and merchant banks, universities, research institutions, government agencies, nongovernmental organizations (NGOs), and individuals.<sup>5</sup> Bank Borrowers use these organizations as *consultants* to help in a wide range of activities—such as policy advice; institutional reforms; management; engineering services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation, and implementation of projects to complement Borrowers' capabilities in these areas.

### General Considerations

1.4 The Borrower is responsible for preparing and implementing the project, and therefore for selecting the consultant, and awarding and subsequently administering the contract. While the specific rules and procedures to be followed for employing consultants

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<sup>1</sup> Requirements of IBRD and IDA are identical. References in these Guidelines to *the Bank* include both *IBRD* and *IDA*, and references to "*loans*" include IBRD loans, as well as IDA credits and grants and project preparation advances (PPAs). References to "*Loan Agreement*" include Development Credit Agreement, Development Financing Agreement and Development Grant Agreement, and Project Agreement. References to "Borrower" include the recipient of an IDA Grant.

<sup>2</sup> To the extent that the agreement providing for the trust fund or the grant does not conflict with these provisions, in which case such agreement will prevail.

<sup>3</sup> In some cases, the Borrower acts only as an intermediary, and the project is carried out by another agency or entity. References in these Guidelines to the Borrower include such agencies and entities, as well as Sub-Borrowers under "onlending arrangements."

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

<sup>5</sup> See paras. 3.15-3.20 for particular types of consultants. Individual consultants are covered in Section V.

depend on the circumstances of the particular case, five main considerations guide the Bank's policy on the selection process:

- (a) the need for high-quality services,
- (b) the need for economy and efficiency,
- (c) the need to give all qualified consultants an opportunity to compete in providing the services financed by the Bank,
- (d) the Bank's interest in encouraging the development and use of national consultants in its developing member countries, and
- (e) the need for transparency in the selection process.

1.5 The Bank considers that, in the majority of cases, these considerations can best be addressed through competition among qualified short-listed firms in which the selection is based on the quality of the proposal and, where appropriate, on the cost of the services to be provided. Sections II and III of these Guidelines describe the different methods of selection of consultants accepted by the Bank and the circumstances in which they are appropriate. Since Quality- and Cost-Based Selection (QCBS) is the most commonly recommended method, Section II of these Guidelines describes in detail the procedures for QCBS. However, QCBS is not the most appropriate method of selection for all cases, therefore, Section III describes other methods of selection and the circumstances in which they are more appropriate.

1.6 The particular methods that may be followed for the selection of consultants under a given project are provided for in the Loan Agreement. The specific contracts to be financed under the project, and their method of selection, consistent with the provisions of the Loan Agreement, shall be specified in the Procurement Plan as indicated in paragraph 1.24 of these Guidelines.

### **Applicability of Guidelines**

1.7 The consulting services to which these Guidelines apply are of an intellectual and advisory nature. These Guidelines do not apply to other types of services in which the physical aspects of the activity predominate (for example, construction of works, manufacture of goods, operation and maintenance of facilities or plant, surveys, exploratory drilling, aerial photography, satellite imagery, and services contracted on the basis of performance of measurable physical output).<sup>6</sup>

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<sup>6</sup> These latter services are bid and contracted on the basis of performance of measurable physical outputs and procured in accordance with the *Guidelines: Procurement under IBRD Loans and IDA Credits* (November 2003), referred to herein as the Procurement Guidelines.

1.8 The procedures outlined in these Guidelines apply to all contracts for consulting services financed in whole or in part from Bank loans or grants or trust funds<sup>7</sup> implemented by the beneficiary. In procuring consulting services not financed from such sources, the Borrower may adopt other procedures. In such cases, the Bank shall satisfy itself that (a) the procedures to be used will result in the selection of consultants who have the necessary professional qualifications, (b) the selected consultant will carry out the assignment in accordance with the agreed schedule, and (c) the scope of the services is consistent with the needs of the project.

### **Conflict of Interest**

1.9 Bank policy requires that consultants provide professional, objective, and impartial advice and at all times hold the client's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Borrower. Without limitation on the generality of the forgoing, consultants shall not be hired under the circumstances set forth below:

- (a) Conflict between consulting activities and procurement of goods, works or services (other than consulting services covered by these Guidelines<sup>8</sup>): A firm that has been engaged by the Borrower to provide goods, works, or services (other than consulting services covered by these Guidelines) for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services (other than consulting services covered by these Guidelines) resulting from or directly related to the firm's consulting services for such preparation or implementation.
- (b) Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

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<sup>7</sup> To the extent that the Trust Fund Agreement does not conflict with these provisions, in which case the Agreement will prevail.

<sup>8</sup> See paragraph 1.7 of these Guidelines.

- (c) Relationship with Borrower's staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with a member of the Borrower's staff (or of the project implementing agency's staff, or of a beneficiary of the loan) who are directly or indirectly involved in any part of: (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the contract.

### **Unfair Competitive Advantage**

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

### **Eligibility**

1.11 To foster competition the Bank permits firms and individuals from all countries to offer consulting services for Bank-financed projects. Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question<sup>9</sup>. However,

- (a) Consultants may be excluded if (i) as a matter of law or official regulations, the Borrower's country prohibits commercial relations with the consultant's country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the procurement of the consulting services required, or (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any payments to any country, person, or entity. Where the Borrower's country prohibits payments to a particular firm or for particular goods by such an act of compliance, that firm may be excluded.
- (b) Government-owned enterprises or institutions in the Borrower's country may participate only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Borrower or Sub-Borrower.
- (c) As an exception to (b), when the services of government-owned universities or research centers in the Borrower's country are of unique and exceptional nature, and

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<sup>9</sup> The Bank permits firms and individuals from Taiwan, China, to offer consulting services for Bank-financed projects.



their participation is critical to project implementation, the Bank may agree on the hiring of those institutions on a case-by-case basis. On the same basis, university professors or scientists from research institutes can be contracted individually under Bank financing.

- (d) Government officials and civil servants may only be hired under consulting contracts, either as individuals or as members of a team of a consulting firm, if they (i) are on leave of absence without pay; (ii) are not being hired by the agency they were working for immediately before going on leave; and (iii) their employment would not create a conflict of interest (see paragraph 1.9).
- (e) A firm declared ineligible by the Bank in accordance with subparagraph (d) of paragraph 1.22 of these Guidelines or in accordance with the World Bank Group anti-corruption policies<sup>10</sup> shall be ineligible to be awarded a Bank-financed contract during such period of time as the Bank shall determine.

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

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

### **Associations between Consultants**

1.13 Consultants may associate with each other in the form of a joint venture or of a sub-consultancy agreement to complement their respective areas of expertise, strengthen the technical responsiveness of their proposals and make available bigger pools of experts, provide better approaches and methodologies, and, in some cases, to offer lower prices. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. If the Borrower employs an association in the form of a joint venture, the association should appoint one of the firms to represent the association; all

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<sup>10</sup> For purposes of this sub-paragraph, the relevant World Bank Group Anti-Corruption policies are set forth in the Guidelines On Preventing and Combating Fraud and Corruption in Projects financed by IBRD Loans and IDA Credits and Grants, and in the Anti-corruption Guidelines for IFC, MIGA, and World Bank Guarantee Transactions.

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

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

1.14 The Bank reviews the Borrower's hiring of consultants to satisfy itself that the selection process is carried out in accordance with the provisions of these Guidelines. The review procedures are described in Appendix 1.

1.15 Under special circumstances, and in response to a written request from the Borrower, the Bank may furnish to the Borrower short lists<sup>11</sup> or long lists<sup>12</sup> of firms that it expects to be capable of undertaking the assignment. The provision of the list does not represent an endorsement of the consultants. The Borrower may delete any name or add other names as it wishes; however, the final short list shall be submitted to the Bank for its approval before the Borrower issues the RFP.

1.16 The borrower is responsible for supervising the consultants' performance and ensuring that they carry out the assignment in accordance with the contract. Without assuming the responsibilities of the Borrower or the consultants, Bank staff shall monitor the work as necessary to satisfy themselves that it is being carried out according to appropriate standards and is based on acceptable data. As appropriate, the Bank may take part in discussions between the Borrower and consultants and, if necessary, may help the Borrower in addressing issues related to the assignment. If a significant portion of project preparation work is being carried out in the consultants' home offices, Bank staff may, with the Borrower's agreement, visit these offices to review the consultants' work.

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<sup>11</sup> Short List: see paragraph 2.6, 2.7 and 2.8.

<sup>12</sup> Long List: a preliminary list of potential firms from which the short list will be established.

## **Misprocurement**

1.17 The Bank does not finance expenditures for consulting services if the consultants have not been selected or the services have not been contracted in accordance with the agreed provisions of the Loan Agreement and the Procurement Plan<sup>13</sup> approved by the Bank. In such cases, the Bank will declare misprocurement, and it is the Bank's policy to cancel that portion of the loan allocated to the services that have been misprocured. The Bank may, in addition, exercise other remedies provided for under the Loan Agreement. Even once the contract is awarded after obtaining a "no objection" from the Bank, the Bank may still declare misprocurement if it concludes that the "no objection" was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower or that the terms and conditions of the contract had been modified without Bank's approval.

## **References to the Bank**

1.18 The Borrower shall use the following language<sup>14</sup> when referring to the Bank in the RFP and contract documents:

*"[Name of the Borrower] has received [or, 'has applied for'] a [loan] from the [International Bank for Reconstruction and Development] (the Bank) in an amount equivalent to US\$ \_\_\_\_, 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. Payments by the Bank will be made only at the request of [name of Borrower or designate] and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the [Loan] Agreement. 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 the proceeds of the [Loan]."*

## **Training or Transfer of Knowledge**

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

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<sup>13</sup> See paragraph 1.24.

<sup>14</sup> To be suitably modified in the case of a credit from IDA or a grant or a trust fund.

## Language

1.20 The RFP and the proposals shall be prepared in one of the three following languages, selected by the Borrower: English, French, or Spanish. The contract signed with the winning consultant shall be written in the language so selected for the RFP, and this language shall be the one that governs the contractual relations between the Borrower and the selected consultant.

1.21 In addition to being prepared in English, French, or Spanish, as indicated in paragraph 1.20 of these Guidelines, the RFP may, at the Borrower's option, also be prepared in the national language of the Borrower's country (or the language used nationwide in the borrower's country for commercial transactions).<sup>15</sup> If the RFP and bidding documents are prepared in two languages, consultants shall be permitted to submit their proposals in either of these two languages. In such case, the contract signed with the selected consultant shall be written in the language in which its proposal was submitted, in which case this language shall be the one that governs the contractual relations between the Borrower and the winning consultant. If the contract is signed in a language other than English, French, or Spanish, and the contract is subject to Bank's prior review, the Borrower shall provide the Bank with a translation of the contract in the internationally used language in which the RFP was prepared. Consultants shall not be required nor permitted to sign contracts in two languages.

## Fraud and Corruption

1.22 It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), as well as consultants and their subcontractors under Bank-financed contracts, observe the highest standard of ethics during the selection and execution of such contracts.<sup>16</sup> 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"<sup>17</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (ii) "fraudulent practice"<sup>18</sup> is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

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<sup>15</sup> The Bank shall be satisfied with the language to be used.

<sup>16</sup> In this context, any action taken by a consultant or a subcontractor to influence the selection process or contract execution for undue advantage is improper.

<sup>17</sup> For the purpose of these Guidelines, "another party" refers to a public official acting in relation to the selection process or contract execution. In this context "public official" includes World Bank staff and employees of other organizations taking or reviewing selection decisions.

<sup>18</sup> For the purpose of these Guidelines, "party" refers to a public official; the terms "benefit" and "obligation" relate to the selection process or contract execution; and the "act or omission" is intended to influence the selection process or contract execution.

- (iii) “collusive practices<sup>19</sup>” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practices<sup>20</sup>” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice”
  - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under para 1.22(e) below.
- (b) will reject a proposal for award if it determines that the consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will cancel the portion of the Loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the Loan were engaged in corrupt, fraudulent, collusive, or coercive practices during the selection process or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur;
- (d) will sanction a consultant, including declaring 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 consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive 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 consultants to permit the Bank to inspect their accounts and records and other documents relating to the submission of proposals and contract performance and to have them audited by auditors appointed by the Bank.

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<sup>19</sup> For the purpose of these Guidelines, “parties” refers to participants in the procurement or selection process (including public officials) attempting to establish contract prices at artificial, non competitive levels.

<sup>20</sup> For the purpose of these Guidelines, “party” refers to a participant in the selection process or contract execution.

1.23 With the specific agreement of the Bank, a Borrower may introduce, into the RFP for large contracts financed by the Bank, a requirement that the consultant include in the proposal an undertaking of the consultant to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery), as listed in the RFP.<sup>21</sup> The Bank will accept the introduction of such a requirement at the request of the Borrowing country, provided the arrangements governing such undertaking are satisfactory to the Bank.

### **Procurement Plan**

1.24 As part of the preparation of the project, the Borrower shall prepare and, before Loan negotiations, furnish to the Bank for its approval, a Procurement Plan<sup>22</sup> acceptable to the Bank setting forth: (a) the particular contracts for consulting services required to carry out the project during an initial period of at least 18 months; (b) the proposed methods for selection of consultants services; and (c) the related Bank review procedures.<sup>23</sup> The Borrower shall update the Procurement Plan annually or as needed throughout the duration of the project. The Borrower shall implement the Procurement Plan in the manner in which it has been approved by the Bank.

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<sup>21</sup> As an example, such an undertaking might read as follows: "We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will observe the laws against fraud and corruption in force in the country of the Client, as such laws have been listed by the Client in the RFP for this contract."

<sup>22</sup> If the Project includes the procurement of goods, works, and non-consulting services, the Procurement Plan should also include the methods for procurement of goods, works, and non-consulting services in accordance with the *Guidelines: Procurement under IBRD Loans and IDA Credits*. The Bank will disclose the initial Procurement Plan to the public after the related loan has been approved; additional updates will be disclosed after the Bank has approved them.

<sup>23</sup> See Appendix 1.

## II. QUALITY- AND COST-BASED SELECTION (QCBS)

### The Selection Process

2.1 QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

2.2 The selection process shall include the following steps:

- (A) preparation of the TOR;
- (B) preparation of cost estimate and the budget;
- (C) advertising;
- (D) preparation of the short list of consultants;
- (E) preparation and issuance of the RFP [which should include: the Letter of Invitation (LOI); Instructions to Consultants (ITC); the TOR and the proposed draft contract];
- (F) receipt of proposals;
- (G) evaluation of technical proposals: consideration of quality;
- (H) public opening of financial proposals;
- (I) evaluation of financial proposal;
- (J) final evaluation of quality and cost; and
- (K) negotiations and award of the contract to the selected firm.

### Terms of Reference (TOR)

2.3 The Borrower shall be responsible for preparing the TOR for the assignment. TOR shall be prepared by a person(s) or a firm specialized in the area of the assignment. The scope of the services described in the TOR shall be compatible with the available budget. TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information (including a list of existing relevant studies and basic data) to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, and so forth, to enable consultants to estimate the required resources. TOR shall list the services and surveys necessary to carry out the assignment and the

expected outputs (for example, reports, data, maps, surveys). However, TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The Borrower's and consultants' respective responsibilities should be clearly defined in the TOR.

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

2.4 Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate shall be based on the Borrower's assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used) and (b) reimbursables, and further divided into foreign and local costs. The cost of staff time shall be estimated on a realistic basis for foreign and national personnel.

### **Advertising**

2.5 For all projects the Borrower is required to prepare and submit to the Bank a draft General Procurement Notice. The Bank will arrange for its publication in *UN Development Business online (UNDB online)* and in the *Development Gateway's dgMarket*.<sup>24</sup> To obtain expressions of interest, the Borrower shall include a list of expected consulting assignments in the General Procurement Notice,<sup>25</sup> and shall advertise a request for expressions of interest for each contract for consulting firms in the national gazette or a national newspaper or in an electronic portal of free access. In addition, contracts expected to cost more than US\$ 200,000 shall be advertised in *UNDB online* and in *dgMarket*. Borrowers may also advertise requests for expressions of interest in an international newspaper or a technical magazine. The information requested shall be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Not less than 14 days from date of posting on *UNDB online* shall be provided for responses, before preparation of the short list.

### **Short List of Consultants**

2.6 The Borrower is responsible for preparation of the short list. The Borrower shall give first consideration to those firms expressing interest that possess the relevant qualifications. Short lists shall comprise six firms with a wide geographic spread, with no more than two firms from any one country and at least one firm from a developing country, unless

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<sup>24</sup> UNDB is a publication of the United Nations. Subscription information is available from: Development Business, United Nations, GCPO Box 5850, New York, NY 10163-5850, USA (Website: [www.devbusiness.com](http://www.devbusiness.com); e-mail: [dbsubscribe@un.org](mailto:dbsubscribe@un.org)); Development Gateway Market is an electronic portal of Development Gateway Foundation, 1889 F Street NW, Washington, DC 20006, USA (Website: [www.dgmarket.com](http://www.dgmarket.com)).

<sup>25</sup> The General Procurement Notice is prepared by the Borrower and submitted to the Bank, which will arrange for its publication in *United Nations Development Business (UNDB online)* and in *Development Gateway Market (dgMarket)*.



qualified firms from developing countries are not identified. The Bank may agree to short lists comprising a smaller number of firms in special circumstances, for example, when only a few qualified firms have expressed interest for the specific assignment or when the size of the contract does not justify wider competition. For the purpose of establishing the short list, the nationality of a firm is that of the country in which it is registered or incorporated and in the case of Joint Venture, the nationality of the firm appointed to represent the Joint Venture. The Bank may agree with the Borrower to expand or reduce a short list; however, once the Bank has issued a “no objection” to a short list, the Borrower shall not add or delete names without the Bank’s approval. Firms that expressed interest, as well as any other firm that specifically so requests, shall be provided the final short list of firms.

2.7 The short list may comprise entirely national consultants (firms registered or incorporated in the country), if the assignment is below the ceiling (or ceilings) established in the Procurement Plan approved by the Bank,<sup>26</sup> a sufficient number of qualified firms is available for having a short list of firms with competitive costs, and when competition including foreign consultants is prima facie not justified or foreign consultants have not expressed interest. These same amounts will be used in Bank lending operations supporting Sector Wide Approaches (SWAs)<sup>27</sup> (in which government and/or donor funds are pooled) as the threshold below which short lists will be composed entirely of national firms selected under procedures agreed with the Bank. However, if foreign firms express interest, they shall be considered.

2.8 The short list should preferably comprise consultants of the same category, similar capacity, and business objectives. Consequently, the short list should normally be composed of firms of similar experience or of not-for-profit organizations (NGOs, Universities, UN Agencies, etc.) acting in the same field of expertise. If mixing is used, the selection should be made using Quality-Based Selection (QBS) or Selection Based on the Consultants’ Qualifications (CQS) (for small assignments)<sup>28</sup>. The short list shall not include Individual Consultants.

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

2.9 The RFP shall include (a) a Letter of Invitation, (b) Information to Consultants, (c) the TOR, and (d) the proposed contract. Borrowers shall use the applicable standard RFPs issued by the Bank with minimal changes, acceptable to the Bank, as necessary to address

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<sup>26</sup> Dollar ceilings shall be determined in each case, taking into account the nature of the project, the capacity of national consultants, and the complexity of the assignments. The ceiling (or ceilings) shall not in any case exceed the amount defined in the Country Procurement Assessment Report (CPAR) for the Country of the Borrower. The dollar ceilings for each borrowing country will be posted in the Bank’s website.

<sup>27</sup> SWAs represent an approach by development agencies to support country-led programs whose scale is greater than a single project. It typically encompasses an entire sector or large portions of one.

<sup>28</sup> Dollar thresholds defining “small” shall be determined in each case, taking into account the nature and complexity of the assignment, but shall not exceed US\$200,000.

project-specific conditions. Any such changes shall be introduced only through the RFP data sheet. Borrowers shall list all the documents included in the RFP. The Borrower may use an electronic system to distribute the RFP, provided that the Bank is satisfied with the adequacy of such system. If the RFP is distributed electronically, the electronic system shall be secure to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

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

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

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

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

### **Contract**

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

### **Receipt of Proposals**

2.13 The Borrower shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than four

weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarifications about the information provided in the RFP. The Borrower shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals). If necessary, the Borrower shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical envelopes shall be opened immediately by a committee of officials drawn from the relevant departments (technical, finance, legal, as appropriate), after the closing time for submission of proposals. The financial proposals shall remain sealed and shall be deposited with a reputable public auditor or independent authority until they are opened publicly. Any proposal received after the closing time for submission of proposals shall be returned unopened. Borrowers may use electronic systems permitting consultants to submit proposals by electronic means, provided the Bank is satisfied with the adequacy of the system, including, inter alia, that the system is secure, maintains the confidentiality and authenticity of proposals submitted, uses an electronic signature system or equivalent to keep consultants bound to their proposals, and only allows proposals to be opened with due simultaneous electronic authorization of the consultant and the Borrower. In this case, consultants shall continue to have the option to submit their proposals in hard copy.

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

2.14 The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation, including any Bank reviews and no objection, is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the RFP.

### **Evaluation of the Quality**

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

Consultant's specific experience:	0 to 10 points
Methodology:	20 to 50 points
Key personnel:	30 to 60 points
Transfer of knowledge: <sup>29</sup>	0 to 10 points
Participation by nationals: <sup>30</sup>	0 to 10 points
Total:	100 points

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

2.17 Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Borrower shall review the qualifications and experience of proposed key personnel in their *curricula vitae*, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed. The individuals shall be rated in the following three subcriteria, as relevant to the task:

- (a) general qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;
- (b) adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
- (c) experience in the region: knowledge of the local language, culture, administrative system, government organization, and so forth.

<sup>29</sup> Transfer of knowledge may be the main objective of some assignments; in such cases, it shall be indicated in the TOR and, only with Bank prior approval may be given a higher weight to reflect its importance.

<sup>30</sup> As reflected by nationals among key staff presented by foreign and national firms.

2.18 Borrowers shall evaluate each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve a minimum technical score specified in the RFP.

2.19 At the end of the process, the Borrower shall prepare a Technical Evaluation Report of the "quality" of the proposals and, in the case of contracts subject to prior review, submit it to the Bank for its review and "no objection". The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

### **Evaluation of Cost**

2.20 After the evaluation of quality is completed and the Bank has issued its no objection, the Borrower shall inform the consultants who have submitted proposals, the technical points assigned to each consultant and shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered nonresponsive to the RFP and TOR that their financial proposals will be returned unopened after the signature of the contract. The Borrower shall simultaneously notify the consultants that have secured the minimum qualifying mark, the date, time, and place set for opening the financial proposals. The opening date shall be defined allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposals. The financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical points, and the proposed prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the financial proposals are opened, and a copy of this record shall be promptly sent to the Bank. The Borrower shall also prepare the minutes of the public opening and a copy of this record shall be promptly sent to the Bank and to all consultants who submitted proposals.

2.21 The Borrower shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a single currency selected by the Borrower (local currency or fully convertible foreign currency) as stated in the RFP. The Borrower shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper for similar transactions. The RFP shall specify the source of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than four weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposal.

2.22 For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes<sup>31</sup> on the contract and income tax payable to the country of the Borrower on the remuneration of services rendered in the country of the Borrower by non-resident staff of the consultant. The cost shall include all consultant’s remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the RFP.

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

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

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

2.24 Negotiations shall include discussions of the TOR, the methodology, staffing, Borrower’s inputs, and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed methodology shall be incorporated in “Description of Services,” which shall form part of the contract.

2.25 The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment.<sup>32</sup> If this is not the case and if it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

2.26 Financial negotiations shall include clarification of the consultants’ tax liability in the Borrower’s country (if any) and how this tax liability has been or would be reflected in the contract. As Lump-Sum Contracts payments are based on delivery of outputs (or products),

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<sup>31</sup> All indirect taxes levied on the contract invoices, at National, State (or Provincial) and Municipal levels.

<sup>32</sup> Defining realistic proposal validity periods in the RFP and carrying out an efficient evaluation minimizes this risk.

the offered price shall include all costs (staff time, overhead, travel, hotel, etc.). Consequently, if the selection method for a Lump-sum contract included price as a component, this price shall not be negotiated. In the case of Time-based Contracts, payment is based on inputs (staff time and reimbursables) and the offered price shall include staff rates and an estimation of the amount of reimbursables. When the selection method includes price as a component, negotiations of staff rates should not take place, except in special circumstances, like for example, staff rates offered are much higher than typically charged rates by consultants for similar contracts. Consequently, the prohibition of negotiation does not preclude the right of the client to ask for clarifications, and, if fees are very high, to ask for change of fees, after due consultation with the Bank.

Reimbursables are to be paid on actual expenses incurred at cost upon presentation of receipts and therefore are not subject to negotiations. However, if the client wants to define ceilings for unit prices of certain reimbursables (like travel or hotel rates), they should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP.

2.27 If the negotiations fail to result in an acceptable contract, the Borrower shall terminate the negotiations and invite the next ranked firm for negotiations. The Borrower shall consult with the Bank prior to taking this step. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Borrower shall not reopen the earlier negotiations. After negotiations are successfully completed and the Bank has issued its no objection to the initialed negotiated contract, the Borrower shall promptly notify other firms on the short list that they were unsuccessful.

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

2.28 After the award of contract, the borrower shall publish in *UNDB online* and in *dgMarket* the following information: (a) the names of all consultants who submitted proposals; (b) the technical points assigned to each consultant; (c) the evaluated prices of each consultant; (d) the final point ranking of the consultants; (e) the name of the winning consultant and the price, duration, and summary scope of the contract. The same information shall be sent to all consultants who have submitted proposals.

#### **Debriefing**

2.29 In the publication of contract award referred to in paragraph 2.28 the Borrower shall specify that any consultant who wishes to ascertain the grounds on which its proposal was not selected, should request an explanation from the Borrower. The Borrower shall promptly provide the explanation as to why such proposal was not selected, either in writing and/or in a debriefing meeting, at the option of the consultant. The requesting consultant shall bear all the costs of attending such a debriefing.

#### **Rejection of All Proposals, and Reinvitation**

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

**Confidentiality**

2.31 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the publication of the award of contract, except as provided in paragraph 2.20 and 2.27.



### III. OTHER METHODS OF SELECTION

#### General

3.1 This section describes the selection methods other than QCBS, and the circumstances under which they are acceptable. All the relevant<sup>33</sup> provisions of Section II (QCBS) shall apply whenever competition is used.

#### Quality-Based Selection (QBS)

3.2 QBS is appropriate for the following types of assignments:

- (a) complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multisectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
- (b) assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
- (c) assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

3.3 In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

3.4 If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Borrower shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Borrower and the consultant shall then negotiate the financial proposal<sup>34</sup> and the contract. All other aspects of the selection process shall be identical to those of QCBS, including the publication of the Award of Contract as described in paragraph 2.28 except that only the

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<sup>33</sup> All provisions of Section II shall be applied with the modifications and suppressions required by the method for selecting consultants used in the specific case. Advertisement for expression of interest is not required when single-source selection is used.

<sup>34</sup> Financial negotiations under QBS includes negotiations of all consultant's remuneration and other expenses.

price of the winning firm is published. If consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in as in QCBS to ensure that the price proposal of only the selected firm is opened and the rest returned unopened, after the negotiations are successfully concluded.

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

3.5 This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. The publication of the Award of Contract shall be as described in paragraph 2.28.

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

3.6 This method is only appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist. Under this method, a "minimum" qualifying mark for the "quality" is established. Proposals, to be submitted in two envelopes, are invited from a short list. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark<sup>35</sup> are rejected, and the financial proposals of the rest are opened in public. The firm with the lowest price shall then be selected and the publication of the Award of Contract shall be as described in paragraph 2.28. Under this method, the minimum qualifying mark shall be established, understanding that all proposals above the minimum compete only on "cost." The minimum qualifying mark shall be stated in the RFP.

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

3.7 This method may be used for small<sup>36</sup> assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Borrower shall prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment, establish a short list, and select the

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<sup>35</sup> This method shall not be used as a substitute for QCBS and shall be used only for the specific cases of very standard and routine technical nature where the intellectual component is minor. For this method the minimum qualifying mark shall be 70 points or higher.

<sup>36</sup> Dollar thresholds defining "small" shall be determined in each case, taking into account the nature and complexity of the assignment, but shall not exceed US\$200,000

firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract.

3.8 The Borrower shall publish in *UNDB online* and in *dgMarket* the name of the consultant to which the contract was awarded, and the price, duration, and scope of the contract. This publication may be done quarterly and in the format of a summarized table covering the previous period.

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

3.9 Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of the client and the project, and the Bank's responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

3.10 Single-source selection may be appropriate only if it presents a clear advantage over competition: (a) for tasks that represent a natural continuation of previous work carried out by the firm (see next paragraph), (b) in emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency, (c) for very small<sup>37</sup> assignments, or (d) when only one firm is qualified or has experience of exceptional worth for the assignment.

3.11 When continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Borrower shall ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the Borrower, which shall then be negotiated.

3.12 If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or if the downstream assignment is substantially larger in value, a competitive process acceptable to the Bank shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. The Bank will consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

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<sup>37</sup> Dollar thresholds defining "very small" shall be determined in each case, taking into account the nature and complexity of the assignment, but shall not exceed US\$100,000.

3.13 The Borrower shall publish *in UNDB online* and in *dgMarket* the name of the consultant to which the contract was awarded and the price, duration, and scope of the contract. This publication may be done quarterly and in the format of a summarized table covering the previous period.

### **Commercial Practices**

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

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

3.15 *Selection of UN Agencies as Consultants.* UN agencies may be hired as the consultants, where they are qualified to provide technical assistance and advice in their area of expertise. However, they shall not receive any preferential treatment in a competitive selection process, except that Borrowers may accept the privileges and immunities granted to UN agencies and their staff under existing international conventions and may agree with UN agencies on special payment arrangements required according to the agency's charter, provided these are acceptable to the Bank. To neutralize the privileges of UN Agencies, as well as other advantages such as tax exemption and facilities, and special payment provisions, the QBS method shall be used. UN agencies may be hired on a single-source selection basis if the criteria outlined in paragraph 3.10 of these Guidelines are fulfilled.

3.16 *Use of Nongovernmental Organizations (NGOs).* NGOs are voluntary nonprofit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGOs may be included in the short list if they express interest and provided that the Borrower and the Bank are satisfied with their qualifications. Borrowers should preferably not include consulting firms in the short list for services for which NGOs are better qualified. For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely NGOs. If so, the QCBS procedure shall be followed, and the evaluation criteria shall reflect the unique qualifications of NGOs, such as voluntarism, nonprofit status, local knowledge, scale of operation, and reputation. Borrowers may select the NGO on a single-source basis, provided the criteria outlined in paragraph 3.10 of these Guidelines are fulfilled.

3.17 *Procurement Agents (PAs).* When a Borrower lacks the necessary organization, resources, or experience, it may be efficient and effective for it to employ, as its agent, a firm that specializes in handling procurement. When PAs are specifically used as "agents" handling the procurement of specific items and generally working from their own offices,

they are usually paid a percentage of the value of the procurements handled, or a combination of such a percentage and a fixed fee. In such cases PAs shall be selected using QCBS procedures with cost being given a weight up to 50 percent. However, when PAs provide only advisory services for procurement or act as “agents” for a whole project in a specific office for such project they are usually paid on a time basis, and in such cases, they shall be selected following the appropriate procedures for other consulting assignments using QCBS procedures and time-based contract, specified in these Guidelines. The agent shall follow all the procurement procedures outlined in the Loan Agreement and in the Procurement Plan approved by the Bank on behalf of the Borrower, including use of Bank *Standard Request for Proposals*, review procedures, and documentation

3.18 *Inspection Agents.* Borrowers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the Borrower country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies shall be selected using QCBS procedures giving cost a weight up to 50 percent and using a contract format with payments based on a percentage of the value of goods inspected and certified.

3.19 *Banks.* Investment and commercial banks, financial firms, and fund managers hired by Borrowers for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, shall be selected under QCBS. The RFP shall specify selection criteria relevant to the activity—for example, experience in similar assignments or network of potential purchasers—and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee”; this fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP shall indicate that the cost evaluation will take into account the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee shall be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores shall be based on the success fee. For the combined evaluation (notably for large contracts), cost may be accorded a weight higher than recommended in paragraph 2.23 or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP shall specify clearly how proposals will be presented and how they will be compared.

3.20 *Auditors.* Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They shall be selected according to QCBS, with cost as a substantial selection factor (40–50 points) or by the “Least-Cost Selection” outlined in paragraph 3.6. For very small<sup>38</sup> assignments CQS may be used.

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<sup>38</sup> See footnote 33.

3.21 "*Service Delivery Contractors.*" Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, such as nurses and paramedics). The job descriptions, minimum qualifications, terms of employment, selection procedures, and the extent of Bank review of these procedures and documents shall be described in the project documentation and the contract shall be included in the Procurement Plan approved by the Bank.

## IV. TYPES OF CONTRACTS AND IMPORTANT PROVISIONS

### Types of Contracts

4.1 *Lump Sum Contract.*<sup>39</sup> Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents, and software programs. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

4.2 *Time-Based Contract.*<sup>40</sup> This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overhead, fee (or profit), and, where appropriate, special allowances. This type of contract shall include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration, and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily and that payments claimed by the consultants are appropriate.

4.3 *Retainer and/or Contingency (Success) Fee Contract.* Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatization operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

4.4 *Percentage Contract.* These contracts are commonly used for architectural services. They may be also used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitively bid. It should be borne in mind that in the case of architectural or

<sup>39</sup> Standard form of *Contract for Consultants' Services (Lump Sum Remuneration)*.

<sup>40</sup> Standard form of *Contract for Consultants' Services (Complex Time-Based Assignments)*. These documents are available on the Bank's website at <http://www.worldbank.org/procure>.

engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (for example, not works supervision).

4.5 *Indefinite Delivery Contract (Price Agreement)*. These contracts are used when Borrowers need to have “on call” specialized services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, institutional reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The Borrower and the firm agree on the unit rates to be paid for the experts, and payments are made on the basis of the time actually used.

### **Important Provisions**

4.6 *Currency*. RFPs shall clearly state that firms may express the price for their services, in any fully convertible currency. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided the proposal includes no more than three foreign currencies. The Borrower may require consultants to state the portion of the price representing costs in the currency of the Borrower’s country. Payment under the contract shall be made in the currency or currencies in which the price is expressed in the proposal.

4.7 *Price Adjustment*. To adjust the remuneration for foreign and/or local inflation, a price adjustment provision shall be included in the contract if its duration is expected to exceed 18 months. Contracts of shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable.

4.8 *Payment Provisions*. Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for example, for mobilization costs) exceeding 10 percent of the contract amount should normally be backed by advance payment securities.

4.9 Payments shall be made promptly in accordance with the contract provisions. To that end,

- (a) consultants can be paid directly by the Bank at the request of the Borrower or exceptionally through a Letter of Credit;
- (b) only disputed amounts shall be withheld, with the remainder of the invoice paid in accordance with the contract; and



- (c) the contract shall provide for the payment of financing charges if payment is delayed due to the client's fault beyond the time allowed in the contract; the rate of charges shall be specified in the contract.

4.10 *Bid and Performance Securities.* Bid and performance securities are not recommended for consultants' services. Their enforcement is often subject to judgment calls, they can be easily abused, and they tend to increase the costs to the consulting industry without evident benefits, which are eventually passed on to the Borrower.

4.11 *Borrower's Contribution.* The Borrower may assign members of its own professional staff to the assignment in different capacities. The contract between the Borrower and the consultant shall give the details governing such staff, known as counterpart staff, as well as facilities that shall be provided by the Borrower, such as housing, office space, secretarial support, utilities, materials, and vehicles. The contract shall indicate measures the consultant can take if any of the items cannot be provided or have to be withdrawn during the assignment, and the compensation the consultant will receive in such a case.

4.12 *Conflict of Interest.* The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the client under the contract. The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with the requirements of paragraphs 1.9 and 1.10 of the Guidelines.

4.13 *Professional Liability.* The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Borrower will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that (a) there must be no such limitation in case of the consultant's gross negligence or willful misconduct; (b) the consultant's liability to the Borrower may in no case be limited to less than a multiplier of the total value of the contract to be indicated in the RFP and in the special conditions of the contract (the amount of such limitation will depend on each specific case);<sup>41</sup> and (c) any such limitation may deal only with the consultant's liability toward the client and not with the consultant's liability toward third parties.

4.14 *Staff Substitution.* During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable), the consultant shall propose other staff of at least the same level of qualifications for approval by the Borrower.

4.15 *Applicable Law and Settlement of Disputes.* The contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. Consultants'

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<sup>41</sup> The Borrower is encouraged to secure insurance for potential risks above these limits.

contracts shall always include a clause for settlement of disputes. International commercial arbitration may have practical advantages over other methods for the settlement of disputes. Borrowers are, therefore, encouraged to provide for this type of arbitration. The Bank shall not be named an arbitrator or be asked to name an arbitrator.<sup>42</sup>

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<sup>42</sup> 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.

## V. SELECTION OF INDIVIDUAL CONSULTANTS

5.1 Individual consultants are employed on assignments for which (a) teams of personnel are not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.

5.2 Individual consultants are selected on the basis of their qualifications for the assignment. Advertisement is not required<sup>43</sup> and consultants do not need to submit proposals. Consultants shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Borrower. Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications and those selected to be employed by the Borrower shall be the best qualified and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.

5.3 From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these Guidelines shall apply to the parent firm.

5.4 Individual consultants may be selected on a sole-source basis with due justification in exceptional cases such as: (a) tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively; (b) assignments with total expected duration of less than six months; (c) emergency situations resulting from natural disasters; and (d) when the individual is the only consultant qualified for the assignment.

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<sup>43</sup> However, in some cases Borrowers may consider the advantage of advertising at their option.

## APPENDIX 1: REVIEW BY THE BANK OF THE SELECTION OF CONSULTANTS

### Scheduling the Selection Process

1. The Bank shall review the selection process for the hiring of consultants proposed by the Borrower in the Procurement Plan to ensure compliance with the Loan Agreement and these Guidelines. The Procurement Plan shall cover an initial period of at least 18 months. The Borrower shall update the Procurement Plan on an annual basis or as needed always covering the next 18 months period of project implementation. Any revisions proposed to the Procurement Plan shall be furnished to the Bank for its prior approval.

### Prior Review

2. With respect to all contracts that are subject to the Bank's prior review:
- (a) Before inviting proposals, the Borrower shall furnish to the Bank for its review and "no objection" the proposed cost estimate and RFP (including the short list). The Borrower shall make such modifications to the short list and the documents as the Bank reasonably requests. Any further modification shall require the Bank's "no objection" before the RFP is issued to the short-listed consultants.<sup>44</sup>
  - (b) After the technical proposals have been evaluated, the Borrower shall furnish to the Bank, in sufficient time for its review, a technical evaluation report (prepared, if the Bank shall so request, by experts acceptable to the Bank) and a copy of the proposals, if requested by the Bank. If the Bank determines that the technical evaluation is inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination; otherwise, the Bank shall issue a "no objection" to the technical evaluation. The Borrower shall also request the Bank's "no objection" if the evaluation report recommends rejection of all proposals.
  - (c) The Borrower may proceed with the opening of the financial proposals only after receiving the Bank's "no objection" to the technical evaluation. When price is a factor in the selection of the consultant, the Borrower may then proceed with the financial evaluation in accordance with the provisions of the RFP. The Borrower shall furnish to the Bank, for its information, the final evaluation report along with its recommendation of the winning firm. The Borrower shall notify the firm that received the highest total score in the final evaluation of its intention to award the contract to the firm and shall invite the firm for negotiations.

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<sup>44</sup> In the case of contracts to be awarded under para. 3.12 where a new competitive process is not practicable, the Borrower shall not initiate negotiations without first furnishing to the Bank for its consideration the required justification and receiving the Bank's "no objection," and shall otherwise follow the requirements of this paragraph 2 in all relevant respects.

- (d) If the Borrower receives complaints from consultants, a copy of the complaint and a copy of the Borrower's response shall be sent to the Bank for information.
- (e) If as result of analysis of a complaint the Borrower changes its contract award recommendation, the reasons for such decision and a revised evaluation report shall be submitted to the Bank for no objection. The Borrower shall provide a republication of the contract award in the format of paragraph 2.28 of these Guidelines.
- (f) After negotiations are completed, the Borrower shall furnish to the Bank, in sufficient time for its review, a copy of the initialed negotiated contract. If the negotiated contract resulted in substitution of key staff or any changes in the TOR and original proposed contract, the Borrower shall highlight the changes and provide an explanation of why these changes are appropriate and necessary.
- (g) If the Bank determines that the final evaluation report, recommendation for award, and/or negotiated contract are inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination. Otherwise, the Bank shall provide its final "no objection" to the contract award. The Borrower shall confirm the award of the contract only after receiving the "no objection" from the Bank.
- (h) Following contract signature, the Borrower shall furnish to the Bank a copy of the final contract before submitting the first application for disbursement under the contract.
- (i) The description and amount of the contract, together with the name and address of the firm, shall be subject to public disclosure by the Bank upon the Borrower's receipt of the signed copy of the contract.

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

4. *Translations.* If a contract is subject to prior review and is written in the national language (or the language used nation-wide in the borrower's country for commercial transactions), a certified translation of the evaluation reports and the initialed negotiated draft contract in the internationally used language specified in the RFP (English, French, or

Spanish) shall be furnished to the Bank for facilitating the review. Such certified translation shall also be furnished to the Bank for any subsequent modifications of such contracts.

**Post Review**

5. The Borrower shall retain all documentation with respect to each contract not governed by paragraph two during project implementation and up to two years after the closing date of the Loan Agreement. This documentation would include, but not be limited to, the signed original of the contract, the analysis of the respective proposals, and recommendations for award, for examination by the Bank or by its consultants, except that for contracts awarded on the basis of single-source selection, it shall include the record of justification, the qualifications and experience of the consultants, and the signed original of the contract. The Borrower shall also furnish such documentation to the Bank upon request. The Bank shall, if it determines that the contract was not awarded in accordance with the agreed procedures, as reflected in the Loan Agreement and further elaborated in the Procurement Plan approved by the Bank or the contract itself is not consistent with such procedures, promptly inform the Borrower that paragraph 1.17 of the Guidelines shall apply and state the reasons for such determination.

## APPENDIX 2: INSTRUCTIONS TO CONSULTANTS (ITC)

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

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

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



## APPENDIX 3: GUIDANCE TO CONSULTANTS

### Purpose

1. This appendix provides guidance to consultants wishing to provide consulting and professional services financed by the Bank or trust funds.

### Responsibility for Selection of Consultants

2. The responsibility for the implementation of the project, and therefore for the payment of consulting services under the project, rests solely with the Borrower. The Bank, for its part, is required by its 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 or a grant are made only at the Borrower's request<sup>45</sup>. Supporting evidence that the funds are used in accordance with the Loan Agreement and/or Procurement Plan (or the Trust Fund Agreement) shall be submitted with the Borrower's withdrawal application. Payment may be made (a) to reimburse the Borrower for payment(s) already made from its own resources, (b) directly to a third party (to the consultant), or (c) to a commercial bank for expenditures against a World Bank Special Commitment covering a commercial bank's letter of credit (a procedure that is exceptional in the case of consultants). As emphasized in paragraph 1.4 of these Guidelines, the Borrower is responsible for the selection and employment of consultants. It invites, receives, and evaluates proposals and awards the contract. The contract is between the Borrower and the Consultant. The Bank is not a party to the contract.

### Bank's Role

3. As stated in these Guidelines (Appendix 1) the Bank reviews the RFP, the evaluation of proposals, award recommendations, and contract to ensure that the process is carried out in accordance with agreed procedures, as required in the Loan Agreement and further elaborated in the Procurement Plan. For all contracts subject to Bank's prior review, the Bank reviews the documents before they are issued, as described in Appendix 1. Also, if at any time in the selection process (even after the award of contract) the Bank concludes that the agreed procedures were not followed in any substantial respect, the Bank may declare misprocurement, as described in paragraph 1.17. 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

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<sup>45</sup> A complete description of the Bank's disbursement procedures is provided in the Disbursement Handbook (available on the Bank's website at <http://www.worldbank.org/projects>).

consultant, the Bank may impose the applicable sanctions set forth in paragraph 1.22 of the Guidelines.

4. The Bank publishes standard RFPs and contracts for different types of consulting services. As stated in paragraphs 2.9 and 2.12 of these Guidelines, it is mandatory for the Borrower to use these documents, with minimum changes acceptable to the Bank to address project-specific issues. The Borrower finalizes and issues these documents as part of the RFP.

### **Information on Consultant Services**

5. Information on consultant services, including a brief description of the nature of services, timing, estimated cost, staff-month, and so forth, will be, in the first instance, included in the Project Information Document (PID), which describes projects under preparation. At the same time, similar information will also be included in the description of each project in the Monthly Operational Summary (MOS). Such information will be continuously updated. Each project requires the publication of a General Procurement Notice in the *United Nations Development Business* (UNDB online)<sup>46</sup> and dgMarket, which will include a more detailed description of the required services, the client agency, and the budgeted cost. In the case of large-value contracts,<sup>47</sup> this will be followed by a specific notice seeking “expression of interest” in *UNDB online* and in dgMarket. The Project Appraisal Document (PAD) will provide yet more detailed information.

6. The Project Information Document (PID) and the Monthly Operational Summary (MOS) are available on the Internet and from the Infoshop<sup>48</sup> in the Bank. The PAD is available after the loan is approved. UNDB and dgMarket are available through online subscription.

### **Consultants’ Role**

7. When consultants receive the RFP, and if they can meet the requirements of the TOR and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the country of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents—especially in the selection procedure and evaluation criteria—any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification

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<sup>46</sup> UNDB is a publication of the United Nations. Subscription information is available from: Development Business, United Nations, GCPO Box 5850, New York, NY 10163-5850, USA (Website: [www.devbusiness.com](http://www.devbusiness.com); e-mail: [dbsubscribe@un.org](mailto:dbsubscribe@un.org)). dgMarket ([www.dgmarket.com](http://www.dgmarket.com)) is a service of the Development Gateway Foundation, 1889 F Street NW, Washington, DC 20006.

<sup>47</sup> Contracts expected to cost more than US\$200,000 equivalent.

<sup>48</sup> The Infoshop address is also the World Bank address: 1818 H Street, N.W., Washington, D.C., 20433, USA. The Project Database is available at: <http://www4.worldbank.org/sprojects/>.

from the Borrower, in writing, within the period specified in the RFP for seeking clarifications.

8. In this connection, it should be emphasized that the specific RFP issued by the Borrower governs each selection, as stated in paragraph 1.2 of these Guidelines. If consultants feel that any of the provisions in the RFP are inconsistent with the Guidelines, they should also raise this issue with the Borrower.

9. Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the *curricula vitae* of key staff submitted with the proposals. The *curricula vitae* shall be signed by the consultants and the individuals and dated. Noncompliance with important requirements will result in rejection of the proposal. Once technical proposals are received and opened, consultants shall not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once financial proposals are received, consultants shall not be required or permitted to change the quoted fee and so forth, except at the time of negotiations carried out in accordance with the provisions of the RFP. If an extension of validity of proposals was the reason that key staff were not available for a company, a change of key staff with equivalent or better qualification might be possible.

### **Confidentiality**

10. As stated in paragraph 2.31, the process of proposal evaluation shall be confidential until the publication of contract award, except for the disclosure of the technical points as indicated in paragraphs 2.20 and 2.27. Confidentiality enables the Borrower and the Bank's reviewers to avoid either the reality or perception of improper interference. If, during the evaluation process, consultants wish to bring additional information to the notice of the Borrower, the Bank, or both, they should do so in writing.

### **Action by the Bank**

11. If consultants wish to raise issues or questions about the selection process, they may send the Bank copies of their communications with the Borrower, or they may write to the Bank directly when the Borrower does not respond promptly or when the communication is a complaint against the Borrower. All such communications should be addressed to the Task Team Leader for the project, with a copy to the Country Director for the borrowing country and to the Regional Procurement Adviser. Names of the Task Team Leaders are available in the PAD.

12. References received by the Bank from short-listed consultants prior to the closing date for submission of the proposal shall be, if appropriate, referred to the Borrower with the Bank's comments and advice, for action or response.

13. Communications that the Bank receives from consultants after the opening of the technical proposals shall be handled as follows. In the case of contracts not subject to prior review by the Bank, any communication shall be sent to the Borrower for due consideration and appropriate action. The Borrower's response shall be reviewed during subsequent supervision of the project by the Bank staff. In the case of contracts subject to prior review, the Bank shall examine the communication, in consultation with the Borrower, and if it needs additional information, shall request it from the Borrower. If additional information or clarification is required from the consultant, the Bank shall ask the Borrower to obtain it and comment on or incorporate it, as appropriate, in the evaluation report. The Bank's review will not be completed until the communication is fully examined and considered.

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

#### **Debriefing**

15. If after contract award, a consultant wishes to ascertain the grounds on which its proposal was not selected, it should address its request to the Borrower as indicated in paragraph 2.29. If the consultant is not satisfied with the explanation given and wishes to seek a meeting with the Bank, it may address 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 consultant's proposal can be discussed and not the proposals of competitors.

# GUIDELINES PROCUREMENT UNDER IBRD LOANS AND IDA CREDITS

May 2004

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This is a MS Word version of the official Procurement Guidelines. If altered, this document no longer holds its official status

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## Acronyms

BOO	Build, own, operate
BOOT	Build, own, operate, transfer
BOT	Build, operate, transfer
CIF	Cost, Insurance, and Freight
CIP	Carriage and Insurance Paid (place of destination)
CPT	Carriage Paid To (named place of destination)
DDP	Delivered Duty Paid
EXW	Ex works, Ex factory, or Off the Shelf
FCA	Free Carrier (named place)
GNP	Gross National Product
IBRD	International Bank for Reconstruction and Development (World Bank)
ICB	International Competitive Bidding
IDA	International Development Agency
LIB	Limited International Bidding
NCB	National Competitive Bidding
NGO	Nongovernmental organization
PAD	Project Appraisal Document
SA	Special Account
SBDs	Standard Bidding Documents
UN	United Nations
UNDB	United Nations Development Business

## 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 or grant from the International Development Association (IDA),<sup>1</sup> of the policies that govern the procurement of goods, works, and services (other than consultant services)<sup>2</sup> required for the project. The Loan Agreement governs the legal relationships between the Borrower and the Bank, and the Guidelines are made applicable to procurement of goods and works for the project, as provided in the agreement. The rights and obligations of the Borrower and the providers of goods and works for the project are governed by the bidding<sup>3</sup> documents, and by the contracts signed by the Borrower with the providers of goods and works, and not by these Guidelines or the Loan Agreements. No party other than the parties to the Loan Agreement shall derive any rights 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.<sup>4</sup> The Bank, for its part, is required 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,"<sup>5</sup> 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;

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<sup>1</sup> 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 IBRD Loans as well as IDA credits or grants and project preparation advances (PPAs). References to Loan Agreement includes Development Credit Agreement, Development Financing Agreement, Development Grant Agreement, and Project Agreement. References to "Borrower" include the recipient of an IDA Grant.

<sup>2</sup> 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: Selection and Employment of Consultants by World Bank Borrowers* apply (referred to herein as Consultant Guidelines).

<sup>3</sup> For the purposes of these Guidelines, the words "bid" and "tender" shall have the same meaning.

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

<sup>5</sup> The Bank's Articles of Agreement; Article III, Section 5(b) and IDA's Articles of Agreement; Article V, Section 1(g).

- (b) the Bank's interest in giving all eligible bidders from developed and developing countries<sup>6</sup> the same information and equal opportunity to compete in providing goods and works financed by the Bank;
- (c) the Bank's interest 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 Open competition is the basis for efficient public procurement. Borrowers shall select the most appropriate method for the specific procurement. In most cases, International Competitive Bidding (ICB), properly administered, and with the allowance for preferences for domestically manufactured goods and, where appropriate, for domestic contractors<sup>7</sup> for works under prescribed conditions is the most appropriate method. In most cases, therefore, the Bank requires its Borrowers to obtain goods, works and services through ICB open to eligible suppliers and contractors.<sup>8</sup> Section II of these Guidelines describes the procedures for ICB.

1.4 Where ICB is not the most appropriate method of procurement, other methods of procurement may be used. Section III describes these other methods of procurement and the circumstances under which their application would be more appropriate. The particular methods that may be followed for procurement under a given project are provided for in the Loan Agreement. The specific contracts to be financed under the project, and their method of procurement, consistent with the Loan Agreement, are specified in the Procurement Plan as indicated in paragraph 1.16 of these Guidelines.

#### **Applicability of Guidelines**

1.5 The procedures outlined in these Guidelines apply to all contracts for goods and works financed in whole or in part from Bank loans.<sup>9</sup> 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 To foster competition the Bank permits firms and individuals from all countries to offer goods, works, and services for Bank-financed projects. Any conditions for

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<sup>6</sup> See para. 1.6, 1.7, and 1.8.

<sup>7</sup> For purposes of these Guidelines, "Contractor" refers only to a firm providing construction services.

<sup>8</sup> See para. 1.6, 1.7, and 1.8.

<sup>9</sup> This includes those cases where the Borrower employs a procurement agent under para. 3.10.

participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question<sup>10</sup>.

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 pre- or post-qualification 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. Consequently, Borrowers should carry out due diligence on the technical and financial qualifications of bidders to be assured of their capabilities in relation to the specific contract.

1.8 As exceptions to the foregoing:

- (a) Firms of a country or goods manufactured in a 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, or payments to, a particular country, person, or entity. Where the Borrower's country prohibits payments to a particular firm or for particular goods by such an act of compliance, that firm may be excluded.
- (b) 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, works, or services resulting from or directly related to the firm's consulting services for such preparation or implementation. This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the contractor's obligations under a turnkey or design and build contract.<sup>11</sup>
- (c) Government-owned enterprises in the Borrower's country may participate only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Borrower or Sub-Borrower.<sup>12</sup>
- (d) A firm declared ineligible by the Bank in accordance with subparagraph (d) of paragraph 1.14 of these Guidelines or in accordance with the World Bank Group Anti-Corruption policies<sup>13</sup> shall be ineligible to be awarded a Bank-financed contract during the period of time determined by the Bank.

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<sup>10</sup> The Bank permits firms and individuals from Taiwan, China, to offer goods, works, and services for Bank-financed projects.

<sup>11</sup> See para. 2.5.

<sup>12</sup> Other than Force Account units, as permitted under para. 3.8.

<sup>13</sup> For purposes of this sub-paragraph, the relevant World Bank Group Anti-Corruption policies are set forth in the Guidelines On Preventing and Combating Fraud and Corruption in Projects financed by IBRD Loans and IDA Credits and Grants, and in the Anti-corruption Guidelines for IFC, MIGA, and World Bank Guarantee Transactions.

## **Advance Contracting and Retroactive Financing**

1.9 The Borrower may wish to proceed with the initial steps of procurement before signing the related Bank loan. In such cases, 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 Bank shall review the process used by the Borrower. 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 Any firm may bid independently or in joint venture confirming joint and several liability, either with domestic firms and/or with foreign firms, but the Bank does not accept conditions of bidding which require mandatory joint ventures or other forms of mandatory association between firms.

## **Bank Review**

1.11 The Bank reviews the Borrower's procurement procedures, documents, bid evaluations, award recommendations, and contracts to ensure that the procurement process is carried out in accordance with the agreed procedures. These review procedures are described in Appendix 1. The Procurement Plan approved by the Bank<sup>14</sup> 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.

## **Misprocurement**

1.12 The Bank does not finance expenditures for goods and works which have not been procured in accordance with the agreed provisions in the Loan Agreement and as further elaborated in the Procurement Plan.<sup>15</sup> In such cases, the Bank will declare misprocurement, and it is the policy of the Bank to cancel that portion of the loan allocated to the goods and works that have been misprocured. The Bank may, in addition, exercise other remedies provided for under the Loan Agreement. Even once the contract is awarded after obtaining a "no objection" from the Bank, the Bank may still declare misprocurement if it concludes that the "no objection" was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower or the terms and conditions of the contract had been modified without Bank's approval.

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<sup>14</sup> See paragraphs 1.16.

<sup>15</sup> See paragraph 1.16.

## References to Bank

1.13 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] (the “Bank”) in an amount 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 Bank will be made only at the request of (name of Borrower or designate) and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the [Loan] Agreement. 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<sup>16</sup>. No party other than (name of Borrower) shall derive any rights from the Loan Agreement or have any claim to the proceeds of the [loan].”<sup>17</sup>

## Fraud and Corruption

1.14 It is the Bank’s policy to require that Borrowers (including beneficiaries of Bank loans), as well as bidders, suppliers, and contractors and their subcontractors under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts.<sup>18</sup> 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”<sup>19</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (ii) “fraudulent practice”<sup>20</sup> is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

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<sup>16</sup> IBRD’s General Conditions Applicable to Loans and Guarantee Agreements; Article V; Section 5.01 and IDA’s General Conditions Applicable to Development Credit Agreements; Article V; Section 5.01

<sup>17</sup> Substitute “credit,” “International Development Association,” and “Credit Agreement,” as appropriate.

<sup>18</sup> In this context, any action taken by a bidder, supplier, contractor, or a sub-contractor to influence the procurement process or contract execution for undue advantage is improper.

<sup>19</sup> For the purpose of these Guidelines, “another party” refers to a public official acting in relation to the procurement process or contract execution]. In this context, “public official” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

<sup>20</sup> For the purpose of these Guidelines, “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

- (iii) “collusive practice”<sup>21</sup> is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice”<sup>22</sup> is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
  - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under par. 1.14 (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
- (c) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur;
- (d) will sanction a firm or individual, including declaring 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, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a Bank-financed contract; and
- (e) will have the right to require that a provision be included in bidding documents and in contracts financed by a Bank loan, a provision be included requiring bidders, suppliers and contractors to permit the Bank to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by the Bank.

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<sup>21</sup> For the purpose of these Guidelines, “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

<sup>22</sup> For the purpose of these Guidelines, “party” refers to a participant in the procurement process or contract execution.

1.15. 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.<sup>23</sup> The Bank will accept the introduction of such undertaking at the request of the Borrowing country, provided the arrangements governing such undertaking are satisfactory to the Bank.

### **Procurement Plan**

1.16. As part of the preparation of the project the Borrower shall prepare and, before loan negotiations, furnish to the Bank for its approval, a Procurement Plan<sup>24</sup> acceptable to the Bank setting forth: (a) the particular contracts for the goods, works, and/or services required to carry out the project during the initial period of at least 18 months; (b) the proposed methods for procurement of such contracts that are permitted under the Loan Agreement, and (c) the related Bank review procedures<sup>25</sup>. The Borrower shall update the Procurement Plan annually or as needed throughout the duration of the project. The Borrower shall implement the Procurement Plan in the manner in which it has been approved by the Bank.

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<sup>23</sup> As an example, such an undertaking might read as follows: "We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will 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."

<sup>24</sup> If the Project includes the selection of consulting services, the Procurement Plan should also include the methods for selection of consulting services in accordance with the Guidelines: Selection and Employment of Consultants by World Bank Borrowers. The Bank will disclose the initial Procurement Plan to the public after the related loan has been approved; additional updates will be disclosed after the Bank has approved them.

<sup>25</sup> See Appendix 1



## **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 bidders<sup>26</sup> 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 plant<sup>27</sup> 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 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.<sup>28</sup>

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

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<sup>26</sup> See para. 1.6, 1.7 and 1.8.

<sup>27</sup> For purposes of these Guidelines, "plant" refers to installed equipment, as in a production facility.

<sup>28</sup> See paras. 2.49-2.54 for the bid evaluation procedures.

the project component. Design and build, and management contracting<sup>29</sup> contracts are also acceptable where appropriate.<sup>30</sup>

## **Two-Stage Bidding**

2.6 In the case of turnkey contracts or contracts for large complex facilities or works of a special nature or complex information and communication technology, 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<sup>31</sup> and the submission of final technical proposals and priced bids in the second stage.

## **Notification and Advertising**

2.7 Timely notification of bidding opportunities is essential in competitive bidding. For projects that include 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 *UN Development Business online (UNDB online)* and in the *Development Gateway's dgMarket*.<sup>32</sup> 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, telephone (or fax) number, and address of the Borrower's agency responsible for procurement and the address of the Website where specific procurement notices will be posted. If known, the scheduled date for availability of prequalification or bidding documents should be indicated. The related prequalification or bidding documents, as the case may be, shall not be released to the public earlier than the date of publication of the General Procurement Notice.

2.8 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 (or in the official gazette, or in an electronic portal with free access). Such invitations shall also be published in *UNDB online* and in *dgMarket*. Notification shall be given in sufficient time to enable prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses.<sup>33</sup>

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<sup>29</sup> 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.)

<sup>30</sup> Also see paras. 3.14 and 3.15 for performance-based contracting.

<sup>31</sup> In revising the bidding documents in the second stage the Borrower should respect the confidentiality of the bidders' technical proposals used in the first stage, consistent with requirements of transparency and intellectual property rights.

<sup>32</sup> UNDB is a publication of the United Nations. Subscription information is available from: Development Business, United Nations, GCPO Box 5850, New York, NY 10163-5850, USA (Website: [www.devbusiness.com](http://www.devbusiness.com); e-mail: [dbsubscribe@un.org](mailto:dbsubscribe@un.org)); Development Gateway Market is an electronic portal of Development Gateway Foundation, 1889 F Street, N.W. Washington, DC 20006, USA (Website: [www.dgmarket.com](http://www.dgmarket.com)).

<sup>33</sup> See para. 2.44.

## **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, some complex information and technology 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 shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their (a) experience and past performance on similar contracts, (b) capabilities with respect to personnel, equipment, and construction or manufacturing facilities, and (c) financial position.<sup>34</sup>

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 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; relevant technical data (including of geological and environmental nature); list of goods or bill of quantities; delivery time or schedule of completion; and necessary appendices, such as formats for various securities. The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their printing and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. The

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<sup>34</sup> The Bank has prepared a Standard Prequalification Document for use by its Borrowers, where appropriate.

Borrower may use an electronic system to distribute bidding documents, provided that the Bank is satisfied with the adequacy of such system. If bidding documents are distributed electronically, the electronic system shall be secure to avoid modifications to the bidding documents and shall not restrict the access of Bidders to the bidding documents. 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 project-specific conditions. 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 in the Procurement Plan), and obtain all the necessary approvals so that the contract can be awarded within that period.

2.14 Borrowers have the option of requiring a bid security. When used, the bid security shall be in the amount and form specified in the bidding documents<sup>35</sup> and 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 the contract has been signed with the winning bidder. In place of a bid security, the Borrower may require bidders to sign a declaration accepting that if they withdraw or modify their bids during the period of validity or they are awarded the contract and they fail to sign the contract or to submit a performance security before the deadline defined in the bidding documents, the bidder will be suspended for a period of time from being eligible for bidding in any contract with the Borrower.

### **Language**

2.15 Prequalification and bidding documents and the bids shall be prepared in one of the following languages, selected by the Borrower: English, French, or Spanish. The contract signed with the winning bidder shall be written in the language so selected for the bidding documents, and this language shall be the one that governs the contractual relations between the Borrower and the winning bidder. In addition to being prepared in English, French, or Spanish, the prequalification and bidding documents may, at the Borrower's

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<sup>35</sup> The format of the bid security shall be in accordance with the standard bidding documents and shall be issued by a reputable bank or financial institution selected by the bidder. If the institution issuing the security is located outside the country of the Borrower, it shall have a correspondent financial institution located in the country of Borrower to make it enforceable.

option, also be prepared in the national language of the Borrower's country (or the language used nation-wide in the borrower's country for commercial transactions).<sup>36</sup> If the prequalification and bidding documents are prepared in two languages, bidders shall be permitted to submit their bids in either of these two languages. In such case, the contract signed with the winning bidder shall be written in the language in which its bid was submitted, in which case this language shall be the one that governs the contractual relations between the Borrower and the winning bidder. If the contract is signed in a language other than English, French, or Spanish, and the contract is subject to Bank's prior review, the Borrower shall provide the Bank with a translation of the contract in the internationally used language in which the bidding documents were prepared. Bidders shall not be required nor permitted to sign contracts in two languages.

### **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 (in person or online). Minutes of the conference shall be provided to all prospective bidders with a copy to the Bank (in hard copy or sent electronically). 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. The Bank shall receive a copy (in hard copy format or sent electronically) and be consulted for issuing a "no objection" when the contract is subject to prior review.

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<sup>36</sup> The Bank shall be satisfied with the language to be used.

## 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 CIP<sup>37</sup> (place of destination) for all goods manufactured abroad, including those previously imported, and EXW<sup>38</sup> (ex works, ex factory, or off-the-shelf) plus cost of inland transportation and insurance to the place of destination for goods manufactured or assembled in the country of the Borrower. Bidders shall be allowed to arrange for ocean and other transportation and related insurance from any eligible source.<sup>39</sup> Where 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 the scope of contract such as design, maintenance,

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<sup>37</sup> Refer to *INCOTERMS 2000* for further definitions. Published by the International Chamber of Commerce, 38 Cours Albert 1<sup>er</sup>, 75008 Paris, France. CIP is carriage and insurance paid to (named place of destination). This term may be used irrespective of the mode of transport, including multimodal transport. CIP term is for custom duties and other import taxes unpaid, payment for which is the responsibility of the Borrower, either for goods previously imported or that will be imported. For previously imported goods, the quoted CIP price shall be distinguishable from the original import value of these goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which will be paid by the purchaser.

<sup>38</sup> 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, offered in the bid.

<sup>39</sup> See para. 1.6, 1.7 and 1.8.

operation, etc. Unless otherwise specified in the bidding documents, the turnkey price shall include all duties, taxes, and other levies.<sup>40</sup>

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 source so that they may offer their most competitive bids.

### **Price Adjustment**

2.24 Bidding documents shall state either that (a) bid prices will be fixed or (b) 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.

### **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

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<sup>40</sup> Goods in bids for turnkey contracts may be invited on the basis of DDP (named place of destination) and Bidders should be free to choose the best arrangement between imported goods or goods manufactured in the country of the Borrower, in the preparation of their bids.

asked to quote FCA (named place) or CPT (named place of destination)<sup>41</sup> prices in addition to the CIP (place of destination) price specified in paragraph 2.21. Selection of the lowest evaluated bid shall be on the basis of the CIP (place of destination) price, but the Borrower may sign the contract on FCA or CPT terms and make its own arrangement for transportation and/or insurance. Under such circumstances, the contract shall be limited to the FCA or CPT 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 (a) ensure that bidders have the opportunity to minimize any exchange risk with regard to the currency of bid and of payment, and hence may offer their best prices; (b) 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 (c) 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 any currency. If the bidder wishes to express the bid price as a sum of amounts in different foreign currencies, they 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 incurred in the currency<sup>42</sup> 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, 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 by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper for

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<sup>41</sup> *INCOTERMS 2000* for free carrier (named place) and for carriage paid to (named place of destination), respectively.

<sup>42</sup> Referred to hereafter as local currency.



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 will be allowed and, if so, how the terms will affect bid evaluation.

## **Alternative Bids**

2.37 The bidding documents shall clearly indicate when bidders are allowed to submit alternative bids, how alternative bids should be submitted, how bid prices should be offered and the basis on which alternative bids shall be evaluated.

## **Conditions of Contract**

2.38 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. The conditions of contract shall provide a balanced allocation of risks and liabilities.

## **Performance Security**

2.39 Bidding documents for works shall require security in an amount sufficient to protect the Borrower in case of breach of contract by the Contractor. This security shall be provided in an appropriate form and amount, as specified by the Borrower in the bidding document<sup>43</sup>. The amount of the security 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.

2.40 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 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**

2.41 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

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<sup>43</sup> The format of the performance security shall be in accordance with the standard bidding documents and shall be issued by a reputable bank or financial institution selected by the bidder. If the institution issuing the security is located outside the country of the Borrower, it shall have a correspondent financial institution located in the country of Borrower to make it enforceable.

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**

2.42 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**

2.43 The conditions of contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes. International commercial arbitration has practical advantages over other methods for the settlement of disputes. Therefore, the Bank recommends that Borrowers use 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.<sup>44</sup> 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**

2.44 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. Borrowers may also use electronic systems permitting bidders to submit bids by electronic means, provided the Bank is satisfied with the adequacy of the system, including, inter alia, that the system is secure, maintains the confidentiality and authenticity of bids submitted, uses an electronic signature system or equivalent to keep bidders bound to their bids, and only allows bids to be opened with due simultaneous electronic authorization of the bidder and the Borrower. In this case, bidders shall continue to have the option to submit their bids in hard copy. The deadline and place for receipt of bids shall be specified in the invitation to bid.

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<sup>44</sup> 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.

## **Bid Opening Procedures**

2.45 The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly<sup>45</sup> 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; bidders or their representatives shall be allowed to be present (in person or online, when electronic bidding is used). 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 posted online when electronic bidding is used) and recorded when opened and a copy of this record shall be promptly sent to the Bank and to all bidders who submitted bids in time. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

## **Clarifications or Alterations of Bids**

2.46 Except as otherwise provided in paragraphs 2.63 and 2.64 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, in hard copy or by an electronic system satisfactory to the Bank.<sup>46</sup>

## **Confidentiality**

2.47 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 publication of contract award.

## **Examination of Bids**

2.48 The Borrower shall ascertain whether the bids (a) meet the eligibility requirements specified in paragraph 1.6, 1.7 and 1.8 of these Guidelines, (b) have been properly signed, (c) are accompanied by the required securities or required declaration signed as specified in paragraph 2.14 of the Guidelines, (d) 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.<sup>47</sup>

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<sup>45</sup> To allow sufficient time to take the bids to the place announced for public bid opening.

<sup>46</sup> See paragraph 2.44

<sup>47</sup> See para. 2.50 regarding corrections.

## Evaluation and Comparison of Bids

2.49 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 2.58, the bid with the lowest evaluated cost,<sup>48</sup> but not necessarily the lowest submitted price, shall be selected for award.

2.50 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.

2.51 The evaluation and comparison of bids shall be on CIP (place of destination) prices for the supply of imported goods<sup>49</sup> and EXW prices, plus cost of inland transportation and insurance to the place of destination, for goods manufactured within the Borrower's country, together with prices for any required installation, training, commissioning, and other similar services.<sup>50</sup>

2.52 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 may be taken into consideration including, among others, 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.

2.53 Under works and turnkey contracts, contractors are responsible for all duties, taxes, and other levies,<sup>51</sup> 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.

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<sup>48</sup> See para. 2.52.

<sup>49</sup> Borrowers may ask for prices on a CIF basis (and bids compared on that same basis) only when the goods are carried by sea and the goods are not containerized. CIF shall not be used for anything other than sea transport. In the case of manufactured goods, it is unlikely that the choice of CIF will be appropriate, because these goods are usually containerized. CIF can be used for any mode of transport, including sea and multimodal transport.

<sup>50</sup> The evaluation of bids shall not take into account: (a) customs duties and other taxes levied on imported goods quoted CIP (which are excluded of custom duties); (b) sales and similar taxes levied in connection with the sale or delivery of the goods

<sup>51</sup> Unless bidding documents specify otherwise for some turnkey contracts (see para. 2.22 ).

2.54 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**

2.55 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 GNP<sup>52</sup> per capita, when comparing bids from eligible domestic Contractors with those from foreign firms.

2.56 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**

2.57 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 right to refuse to grant such an extension. If the bidding documents require a bid security, bidders may exercise their right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid shall be required to provide a suitable extension of bid security.

### **Postqualification of Bidders**

2.58 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.

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<sup>52</sup> Gross national product as defined annually by the Bank.

## **Award of Contract**

2.59 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.<sup>53</sup> 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.

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

2.60 Within two weeks of receiving the Bank's "no objection" to the recommendation of contract award, the Borrower shall publish in *UNDB online* and in *dgMarket* the results identifying the bid and lot numbers and the following information: (a) name of each bidder who submitted a bid; (b) bid prices as read out at bid opening; (c) name and evaluated prices of each bid that was evaluated; (d) name of bidders whose bids were rejected and the reasons for their rejection; and (e) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.

## **Rejection of All Bids**

2.61 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 or when bid prices are substantially higher than existing budget. Lack of competition shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid, if the bid was satisfactorily advertised and prices are reasonable in comparison to market values. Borrowers may, after the Bank's prior approval, reject all bids. 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.

2.62 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 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.

2.63 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

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<sup>53</sup> Referred to as "lowest evaluated bidder" and "lowest evaluated bid," respectively.

reduction of the contract price. However, substantial reduction in the scope or modification to the contract documents may require rebidding.

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

### **Debriefing**

2.65 In the publication of Contract Award referred to in paragraph 2.60 the Borrower shall specify that any bidder who wishes to ascertain the grounds on which its bid was not selected, should request an explanation from the Borrower. The Borrower shall promptly provide an explanation of why such bid was not selected, either in writing and/or in a debriefing meeting, at the option of the Borrower. The requesting bidder shall bear all the costs of attending such a debriefing.

## **D. Modified ICB**

### **Operations Involving a Program of Imports<sup>54</sup>**

2.66 Where the loan provides financing for a program of imports, ICB with simplified advertising and currency provisions may be used for large-value contracts, as defined in the Loan Agreement.<sup>55</sup>

2.67 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 (or in the official gazette, if any, or in an electronic portal with free access) in addition to *UNDB online* and *dgMarket*. 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**

2.68 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 or bids submitted by electronic means, and in such cases either no bid security is required, or standing bid securities valid over a

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<sup>54</sup> Also see para 3.11.

<sup>55</sup> Procurement of smaller contracts 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.



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 This Section describes the methods of procurement that can be used where ICB would not be the most economic and efficient method of procurement, and where other methods are deemed more appropriate.<sup>56</sup> The Bank's policies with respect to margins of preference for domestically manufactured goods and works contracts do not apply to methods of procurement other than ICB. Paragraphs 3.2 to 3.7 describe the generally used methods in descending order of preference and the remaining paragraphs the methods used in specific circumstances.

#### **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 (a) there is only a limited number of suppliers, or (b) 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, including the publication of the Award of Contract as indicated in paragraph 2.60.

#### **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 appropriate way of procuring goods or works which, by their nature or scope, are unlikely to attract foreign competition. To be acceptable for use in Bank-financed procurement, these procedures shall be reviewed and modified<sup>57</sup> as necessary to assure economy, efficiency, transparency, and broad consistency with the provisions included in Section I of these Guidelines. NCB may be the most appropriate method of procurement where foreign bidders are not expected to be interested because (a) the contract values are small, (b) works are scattered geographically or spread over time, (c) works are labor intensive, or (d) 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 Advertising may be limited to the national press or official gazette, or a free and open access website. Bidding documents may be only in a national language of the borrower's country (or the language used nation-wide in the borrower's country for commercial transactions), and the currency of the country of the Borrower is generally

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<sup>56</sup> 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.

<sup>57</sup> Any such modification shall be reflected in the Loan Agreement.

used for the purposes of bidding and payment. In addition, the bidding documents shall provide clear instructions on how bids should be submitted, how prices should be offered, and the place and time for submission of bids. Adequate response time for preparation and submission of bids shall be provided. The procedures shall provide for adequate competition in order to ensure reasonable prices, and methods used in the evaluation of bids and the award of contracts shall be objective and made known to all bidders in the bidding documents and not be applied arbitrarily. The procedures shall also include public opening of bids, publication of results of evaluation and of the award of contract and provisions for bidders to protest. If foreign firms wish to participate under these circumstances, they shall be allowed to do so.

### **Shopping**

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

### **Direct Contracting**

3.6 Direct contracting is contracting without competition (single source) and 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.

3.7 After the contract signature, the Borrower shall publish in *UNDB online* and in *dgMarket* the name of the contractor, price, duration, and summary scope of the contract. This publication may be done quarterly and in the format of a summarized table covering the previous period.

### **Force Account**

3.8 Force account, that is, construction by the use of the Borrower's own personnel and equipment,<sup>58</sup> 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 directly from specialized agencies of the United Nations (UN), acting as suppliers, pursuant to their own procedures, may be the most appropriate way of procuring: (a) small quantities of off-the-shelf goods, primarily in the fields of education and health; and (b) specialized products where the number of suppliers is limited such as for vaccines or drugs.

### **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 procurement. The agent shall follow all the procurement procedures provided for in the Loan Agreement and as further elaborated in the Procurement Plan approved by the Bank on behalf of the Borrower, including use of Bank SBDs, review procedures, and documentation. This also applies in cases where UN agencies act as procurement agents.<sup>59</sup> Management Contractors may be employed in a similar manner for a fee to contract for miscellaneous works involving reconstruction, repairs, rehabilitation, and new construction in emergency situations, or where large numbers of small contracts are involved.

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<sup>58</sup> 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."

<sup>59</sup> 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 in the Procurement Plan, and provided the terms and conditions of selection and employment are acceptable to the Bank.

## **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, small and medium 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 private sector or commercial practices, which are acceptable to the Bank. However, even in these situations, ICB may be the most appropriate 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.

## **Procurement under BOO/BOT/BOOT, Concessions and Similar Private Sector Arrangements**

3.13 Where the Bank is participating in financing the cost of a project procured under a BOO/BOT/BOOT,<sup>60</sup> concessions or similar type of private sector arrangement, either of the following procurement procedures shall be used, as provided for in the Loan Agreement and further elaborated in the Procurement Plan approved by the Bank:

- (a) The concessionaire or entrepreneur under the BOO/BOT/BOOT or similar type of contract<sup>61</sup> shall be selected under ICB 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 Project Appraisal Document, and the Loan Agreement shall specify the type of expenditures incurred by the said entrepreneur towards which Bank financing will apply.  
Or,

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<sup>60</sup> BOO: Build, Own, Operate; BOT: Build, Operate, Transfer; BOOT: Build, Own, Operate, Transfer.

<sup>61</sup> For projects such as toll roads, tunnels, harbors, bridges, power stations, waste disposal plants, and water distribution systems.

- (b) If the said concessionaire or 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 procedures defined in Section II.

### **Performance-Based Procurement**

3.14 Performance Based Procurement,<sup>62</sup> also called Output-Based Procurement, refers to competitive procurement processes (ICB or NCB) resulting in a contractual relationship where payments are made for measured outputs instead of the traditional way where inputs are measured. The technical specifications define the desired result and which outputs will be measured including how they will be measured. Those outputs aim at satisfying a functional need both in terms of quality, quantity and reliability. Payment is made in accordance with the quantity of outputs delivered, subject to their delivery at the level of quality required. Reductions from payments (or retentions) may be made for lower-quality level of outputs and, in certain cases, premiums may be paid for higher quality level of outputs. The bidding documents do not normally prescribe the inputs, nor a work method for the contractor. The contractor is free to propose the most appropriate solution, based on mature and well proven experience and shall demonstrate that the level of quality specified in the bidding documents will be achieved.

3.15 Performance Based Procurement (or Output Based Procurement) can involve: (a) the provision of services to be paid on the basis of outputs; (b) design, supply, construction (or rehabilitation) and commissioning of a facility to be operated by the borrower; or (c) design, supply, construction (or rehabilitation) of a facility and provision of services for its operation and maintenance for a defined period of years after its commissioning .<sup>63</sup> For the cases where design, supply and/or construction are required, prequalification is normally required and the use of Two-Stage Bidding as indicated in paragraph 2.6 shall apply.

### **Procurement under Loans Guaranteed by the Bank**

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

3.17 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 (a) call for the

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<sup>62</sup> The use of Performance Based Procurement in Bank financed projects should be the result of the satisfactory technical analysis of the different options available and should be either included in the PAD or subject to prior approval by the Bank for incorporation into the procurement plan.

<sup>63</sup> Examples of such type of procurement are: (i) for the case of procurement of services: provision of medical services, i.e. payments for specific services, like office visits, or defined laboratory tests, etc. ; (ii) for the case of procurement of a facility: Design, Procurement, Construction, and Commissioning of a thermal power plant to be operated by the borrower; (iii) for the case of procurement of a facility and services: Design, Procurement, Construction (or Rehabilitation) of a road and operation and maintenance of the road for 5 years after construction.

participation of local communities and/or nongovernmental organizations (NGOs) in the delivery of services, or (b) increase the utilization of local know-how and materials, or (c) 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 and are acceptable to the Bank. The procedures proposed and the project components to be carried out by community participation shall be outlined in Loan Agreement and further elaborated in the Procurement Plan or the relevant project implementation document approved by the Bank.

## Appendix 1: Review by the Bank of Procurement Decisions

### Scheduling of Procurement

1. The Bank shall review the procurement arrangements proposed by the Borrower in the Procurement Plan for its conformity with the Loan Agreement and these Guidelines. The Procurement Plan shall cover an initial period of at least 18 months. The Borrower shall update the Procurement Plan on an annual basis or as needed always covering the next 18 months period of project implementation. Any revisions proposed to the Procurement Plan shall be furnished to the Bank for its prior approval.

### Prior Review

2. With respect to all contracts<sup>64</sup> which are 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 report evaluating the applications received by the Borrower, the list of proposed 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 approval 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

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<sup>64</sup> For contracts procured on the basis of direct contracting under paras 3.6 and 3.7, the Borrower shall furnish to the Bank for its approval, prior to contract execution, a copy of the specifications and the draft contract. The contract shall be executed only after the Bank has given its approval, and the provisions in (h) of this paragraph shall apply with respect to the executed contract.



be inconsistent with the Loan Agreement and/or the Procurement Plan, promptly inform the Borrower and state the reasons for such determination. Otherwise, the Bank shall provide its no objection to the recommendation for contract award. The Borrower shall award the contract only after receiving the “no objection” from the Bank.

- (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 approval for the first request for extension, if it is longer than four weeks, and for all subsequent requests for extension, irrespective of the period.
- (e) If after publication of the results of evaluation, the Borrower receives protests or complaints from bidders, a copy of the complaint and a copy of the Borrower’s response shall be sent to the Bank for information.
- (f) If as result of analysis of a protest the borrower changes its contract award recommendation, the reasons for such decision and a revised evaluation report shall be submitted to the Bank for no objection. The Borrower shall provide a republication of the contract award in the format of paragraph 2.60 of these Guidelines.
- (g) The terms and conditions of a contract shall not, without the Bank’s prior approval, materially differ from those on which bids were asked or prequalification of Contractors, if any, was invited.
- (h) 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.
- (i) All evaluation reports shall be accompanied by 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 receipt of the signed copy of the contract.

3. *Modifications.* 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 seek the Bank’s no objection to the proposed extension, modification, or change order. If the Bank determines that the proposal would be inconsistent with the provisions of the Loan Agreement and/or Procurement Plan, it shall promptly inform the Borrower and state the reasons for its determination. A copy of all amendments to the contract shall be furnished to the Bank for its record.

4. *Translations.* If a contract awarded under ICB procedures is subject to prior-review and is written in the national language,<sup>65</sup> (or the language used nation-wide in the borrower's country for commercial transactions) a certified translation of the contract in the internationally used language specified in the bidding documents (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.

#### **Post Review**

5. The Borrower shall retain all documentation with respect to each contract not governed by paragraph two during Project implementation and up to two years after the closing date of the Loan Agreement. This documentation would include, but not be limited to, the signed original of the contract, the analysis of the respective proposals, and recommendations for award, for examination by the Bank or by its consultants. The Borrower shall also furnish such documentation to the Bank upon request. If the Bank determines that the goods, works or services were not procured in accordance with the agreed procedures, as reflected in the Loan Agreement and further detailed in the Procurement Plan approved by the Bank or that the contract itself is not consistent with such procedures, it may declare misprocurement as established in paragraph 1.12 of the Guidelines. The Bank shall promptly inform the Borrower the reasons for such determination.

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<sup>65</sup> Refer to para. 2.15.

## Appendix 2: 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 exclusively 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 30 percent or more 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 manufactured in the country of the Borrower.
  - (c) Group C: bids offering goods manufactured abroad that have been already imported or that will be directly imported.
3. The price quoted for goods in bids of Groups A and B shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported, but shall exclude the sales and similar taxes on the finished product. The price quoted for goods in bids of Group C shall be on CIP (place of destination), which is exclusive of customs duties and other import taxes already paid or to be paid.
4. In the first step, all evaluated bids in each group shall be compared to determine the lowest bid in each group. Such lowest evaluated bids shall 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 four above, the lowest evaluated bid is a bid from Group C, the lowest evaluated bid from Group C shall be further compared with the lowest evaluated bid from Group A after adding to the evaluated price of goods offered in the bid from Group C, for the purpose of this further comparison only, an amount equal to 15 percent of the CIP bid price. The lowest evaluated bid determined from this last comparison shall be selected.
6. In the case of single responsibility or turnkey contracts for the supply of a number of discrete items of equipment as well as major installation and/or construction services

no margin of preference shall apply.<sup>66</sup> However, with Bank's "no objection", bids for such contracts may be invited and evaluated on the basis of DDP<sup>67</sup> (named place of destination) prices for goods manufactured abroad.

### **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,<sup>68</sup> 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,<sup>69</sup> 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.

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<sup>66</sup> This does not refer to the supply of goods with supervision of installation in the same contract which is considered a contract for the supply of goods, and therefore eligible for the application of domestic preference in the goods component.

<sup>67</sup> DDP is the INCOTERM which stands for "Delivered Duty Paid" where the seller delivers the goods to the buyer, cleared for import, and not unloaded from any arriving means of transport at the named place of destination. The seller has to bear all the costs and risks involved in bringing the goods thereto including, where applicable, any duty for import in the country of destination, and unloading at final destination as part of the turn-key contract. In countries that exempt bidders on imports under contracts financed by the Bank, comparison shall be made on the basis of non-exemption of duties and taxes on importation of goods manufactured abroad and the bidding documents may indicate that, before contract signature, the purchaser and the winning bidder will identify the amount of taxes payable for importation of the goods offered resulting from that exemption. However, the contract amount to be signed will not include the identified total amount of exempted duties and taxes

<sup>68</sup> Preference for domestic Contractors is applicable only in countries which qualify.

<sup>69</sup> At the prequalification and/or at the bidding stage.

## Appendix 3: Guidance to Bidders

### Purpose

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

### Responsibility for Procurement

2. 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 and/or the Procurement Plan shall be submitted with the Borrower's withdrawal application. Payment may be made (a) to reimburse the Borrower for payment(s) already made from its own resources, (b) directly to a third party (usually to a supplier or contractor), or (c) to a commercial bank for expenditures against a World Bank Special Commitment covering a commercial bank's letter of credit.<sup>70</sup> 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, 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 1.12. 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 1.14 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

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<sup>70</sup> A complete description of the Bank's disbursement procedures is provided in the Disbursement Handbook (available on the Bank's website at <http://www.worldbank.org/projects>).

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 Procurement Notices as described in paragraphs 2.7 and 2.8 of the Guidelines. General guidance on participation, as well as advance information on business opportunities in upcoming projects, may be obtained from the World Bank website<sup>71</sup> as well as from the Infoshop.<sup>72</sup> Project Appraisal Documents (PAD) are also available from the Infoshop and on the Bank's website 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.

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 is accepted. Alternative solutions should be offered only

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<sup>71</sup> <http://www.worldbank.org>

<sup>72</sup> The Infoshop address is the World Bank address at 1818 H Street, N.W., Washington, D.C., 20433, U.S.A. The Project Database is available at: <http://www.worldbank.org/projects/>.

when authorized in the bidding documents. 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 2.47 of the Guidelines, the process of bid evaluation shall be confidential until the publication of contract award. 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 Task Team Leader for the project, with a copy to the Country Director for the borrowing country and to the Regional Procurement Adviser. Names of Task Team Leaders are available in the PAD.

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 published.

### **Debriefing**

15. As stated in paragraph 2.65, 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.