

# USAID Transform WASH

## Procurement Management Training Manual



Prepared for Regional, Zonal and Woreda  
WASH Team

Year 2018



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FROM THE AMERICAN PEOPLE



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USAID TRANSFORM WASH sets out to improve water, sanitation and hygiene (WASH) outcomes in Ethiopia by increasing access to and sustained use of a wide spectrum of affordable WASH products and services, with a substantial focus on sanitation.

It does so by transforming the market for low-cost quality WASH products and services: stimulating demand at community level, strengthening supply chains and building the enabling environment for a vibrant private market.

USAID TRANSFORM WASH is a USAID-funded project implemented by PSI in collaboration with SNV, Plan International, and IRC. The consortium are working closely with government agencies - including the Ministry of Health, the National WASH Coordination Office and regional governments.

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Cite this publication as follows: Tegenu Tadesse Procurement and Contract Management Consultant, 2018. Procurement Management Training. Addis Ababa: USAID Transform WASH.



# 1. What is Procurement Management?

Procurement management is the entire process that leads to the achievement of the ultimate scope of the respective contract (be it supply of goods, delivery of services or completion of civil works). That would ideally comprise all the steps from needs assessment and planning, going through bidding/selection procedures, contract award and through to successful completion of the contract.

## 1.1. General Principles or Considerations of Procurement Management

- *Achieve maximum value for money in procurement. i.e. insure economy, efficiency and effectiveness.*
- *No Candidate Shall be discriminated or excluded from participating in public procurement on the ground of nationality or other reasons which are not related to the evaluation criteria except in accordance with the rule of preference provided in the proclamation.*
- *Support the country's economic development by ensuring economy, efficiency and effectiveness in the execution of public procurement.*
- *Any criteria applied in making procurement decisions and decisions taken on each procurement must be made transparent to all concerned parties.*
- *Ensure accountability for decisions made and measures taken in the execution of public procurement.*
- *Encourage local producers, companies and small and microenterprises which support the national economy through the application of preferential treatment granted by the Proclamation and this Directive.*

## 1.2. Procurement planning

Procurement planning is the process of deciding what to buy, when and from what source. During the procurement planning process the procurement method is assigned and the expectations for fulfillment of procurement requirements determined.

### 1.2.1. Procurement Planning:

- *Helps to decide what to buy, when and from what sources.*
- *Allows planners to determine if expectations are realistic; particularly the expectations of the requesting entities, which usually expect their requirements met on short notice and over a shorter period than the application of the corresponding procurement method allows.*
- *An opportunity for all stakeholders involved in the processes to meet in order to discuss particular procurement requirements. These stakeholders could be the*

requesting entity, end users, procurement department, technical experts, and even vendors to give relevant inputs on specific requirements.

- *Permits the creation of a procurement strategy for procuring each requirement that will be included in the procurement plan. Such strategy includes a market survey and determining the applicable procurement method given the requirement and the circumstances.*
- *Helps Planners to estimate the time required to complete the procurement process and award contract for each requirement. This is valuable information as it serves to confirm if the requirement can be fulfilled within the period expected, or required, by the requesting entity.*
- *Helps technical expertise to develop technical specifications and/or scope of work for certain requirements can be assessed, especially where in-house technical capacity is not available or is non-existent.*
- *Helps Planners to assess feasibility of combining or dividing procurement requirements into different contract packages.*
- *Allows for the monitoring of the procuring process to determine how actual performance compares with planned activities, and thus to alert the pertinent departments and adjust the procurement plan accordingly.*
- *To enhances the transparency and predictability of the procurement process.*

The Procurement Plan is the product of the procurement planning process. It can be developed for a particular requirement, a specific project, or for a number of requirements for one or many entities in the public or private sectors.

### **1.2.2. Important Points to be considered in Procurement Planning**

- *Begin with the desired outcome in mind*
- *From the initial identification of requirements, engage the assistance of a knowledgeable procurement practitioner*
- *Compose a multi-departmental team of individuals relevant to the procurement requirements*
- *Ensure budget allocation*
- *Determine need for technical assistance to develop technical specifications or terms of reference*
- *Identify dependent procurement requirements*
- *Determine market availability*
- *Seek opportunities to consolidate similar requirements*
- *Be realistic about expected contract award dates, by early determination of procurement methods*

### 1.3. Packaging of procurements

In identifying its procurement needs, any Public Body have to take the following point into consideration:-

- *That the need cannot be met by using unused resource or property available in the Public Body.*
- *That the need can be met by a product or service available in the market.*
- *That the need does not involve items which shall be of no use to the Public Body and cause the Public Body to incur unnecessary cost.*
- *That the identification of procurement needs makes provisions for additional need that might arise in the future, especially in regard to the procurement of goods of long term contract.*
- *That the procurement need is in line with standard items which are widely available in the market unless the need requires otherwise.*
- *That the procurement need is environmentally friendly.*

In determining its annual procurement needs arising from its various departments, a Public Body has to adhere to the following procedures:-

- *Require end users in the Public Body to submit their annual procurement needs,*
- *Identify the need submitted by end users by type of procurement, quantity, quality and source.*
- *Identify goods, works and or services to which the Public Body gives priority and special attention.*
- *Ascertain that there are adequate suppliers for the needs*
- *Determine the cost estimate for each type of procurement by reference to survey conducted by the Public Body or price information obtained from other sources.*
- *Ascertain that technical specification is prepared or will be prepared by end users.*

Public bodies have to organize their procurement needs in packages based on procurement needs data collected from end users and market price survey, and taking into consideration the following points:-

- *Assort, as far as possible, similar and related needs.*
- *In respect of bulk purchase, ensure that there are adequate suppliers in the market or classifying the procurement into lots based on category of supplies, which can attracts competition.*

- Ensure that the procurement is convenient for execution and there are no hurdles obstructing the procurement.
- The procurement in such a way as to open up opportunity for as many local producers as possible to participate in the procurement.

## 1.4. Selection of procurement Method

In the preparation of their procurement plan, Public bodies have to select and indicate the appropriate procurement methods to be used in respect of each type of procurement, from among the methods prescribed in the Proclamation and the Directive.

In preparing its procurement plan, a Public Body has to insure that the plan is inclusive of all of its identified procurement needs and the appropriate procurement method is selected for each procurement.

## 1.5. Setting time table for procurement

A Public Body has to fix the time table for the main activities to be performed in the procurement process, using the formats developed by the agency to facilitate the preparation of procurement plan by public bodies. In doing so, public bodies have to take into consideration the following and other matters which are relevant to the type of procurement.

- *A That the time fixed for the execution of that procurement is in harmony with the work program of the Public Body,*
- *That the schedule takes into consideration when the supply is widely available in the market.*
- *That the schedule is in keeping with the minimum floating period of bids and allows as far as possible, additional time for bidders to prepare bid documents in order to create conducive environment for wide competition.*
- *In particular, public bodies have to ensure that adequate time is given for preparation, evaluation and approval of bid documents in respect of complex and large procurements.*
- *Care should be taken in the fixing of procurement schedule not to allow longer time in respect of each type of procurement than what is necessary for carrying out the main activities of procurement.*

## 1.6. Content of a procurement plan

The procurement plan to be prepared by public bodies shall contain the following main contents:-

- The Procurement number,



- Description of The procurement
- Quantity of the procurement
- Procedures(methods) to be followed in the execution of the procurement
- The schedule of main activities to be carried out to complete the procurement
- The budget and source of finance of the procurement
- The Type of contract appropriate to the procurement,
- Other matters which are important depending on the nature of the Public Body.

## **1.7. Approval and amendment of procurement plan**

- *Procurement units of public bodies have to submit the annual procurement plan they have prepared to the head of the Public Body for approval after consultation with the Procurement Endorsing Committee of the Public Body.*
- *The head of a Public Body has to monitor the execution of procurement by establishing a system enabling him to ascertain that the conduct of procurement conforms to the approved procurement plan.*
- *The head of a Public Body shall send a copy of the approved annual procurement plan to the appropriate departments and the Agency for implementation and follow up.*
- *A Public Body shall not split procurements nor deviate from the annual procurement plan once it is approved by the head of the Public Body and a copy of it is sent to the Agency.*
- *Public Body may at any time modify its procurement plan where necessary.*
- *A procurement plan modified shall be sent to those departments and the Agency for which the initial procurement plan was sent.*

## **1.8. Publication of annual procurement plan**

The Agency may compile the annual procurement plans submitted to it by public bodies and as necessary, publish procurement plans by assorting such plans by type of procurement, or facilitate the use by public bodies of its website to post such procurement plans.

# **2. Procurement methods**

## **2.1. Approved methods of procurement**

- *Open (Competitive) bidding (National or International)*

- *Restricted bidding*
- *Request for quotations (Shopping)*
- *Single source/ Direct procurement*
- *Two stage bidding (Complex and large works or supply and installation contracts)*

## **2.2. Procedure of Competitive Bidding**

When applying competitive bidding, public bodies shall use the standard bidding documents prepared by the Agency and follow the steps listed hereunder:-

## **2.3. Pre- conditions**

Public bodies have to ascertain that the following conditions are satisfied when using national competitive bidding:-

- *Determine that the required objects of procurement can only be procured from local suppliers and the value of the procurement is below the threshold established for international competitive bidding.*
- *The required object of procurement is available only locally notwithstanding that the cost of the procurement exceeds the threshold. (NCB)*

## **2.4. Invitation to bid**

- *The invitation to bid has to be published at least once in a newspaper that has nationwide circulation to ensure participation of as many bidders as possible.*
- *The publication of an invitation to bid shall contain at least the following information:-*
  - *The name and address of the Public Body publicizing the invitation to bid*
  - *The type and to the extent possible the quantity and place of delivery of the goods or services, or the nature and the site of the construction to be effected, or the type of the consultancy service to be rendered and the place where such service is rendered.*
  - *The criteria to be satisfied by the candidates, who can participate in the bid,*
  - *The place where the bidding documents can be obtained,*
  - *The amount of the bidding security*
  - *The price of the bid document and the means of payment*
  - *The place and deadline of submission of bids, and the place, date and hour of the bid opening*
  - *A statement that the Public Body reserves the right to reject any or all bids*
  - *Other matters that the Public Body deems necessary for bidders to know.*
  - *The invitation to bid shall be prepared in the language in which the bid proceeding is to be conducted.*

### **2.4.1. Bidding Document**

Public bodies have to use the standard bidding document prepared by the Agency, they have to make sure that the bidding document prepared by them incorporates the contents listed in procurement Directive.

- *They have to reproduce the part of the standard bidding documents dealing with the instruction to bidders and the general conditions of contracts in the bidding documents they prepare without making any change there to, while making any adjustment to the other parts of the standard bidding documents that they consider appropriate to the type and nature of the procurement,*
- *While the task of drawing up bidding documents is principally that of the procurement unit or team, a bidding document prepared in respect of procurement subject to the approval of the Procurement Endorsing Committee has to be approved by the committee before being put to use.*

## **2.4.2. Instruction to Bidders**

This Section provides information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. ITB contains provisions that are to be used without modification.

## **2.4.3. Bid Data Sheet (BDS)**

This Section includes provisions that are specific to each procurement and that supplement Instructions to Bidders.

## **2.4.4. Evaluation and Qualification Criteria**

This Section specifies the criteria to determine the lowest evaluated bid and the qualifications of the Bidder to perform the contract.

## **2.4.5. Bidding Forms**

This Section includes the forms for the Bid Submission, Price Schedules, Bid Security, and the Manufacturer's Authorization to be submitted completed by the Bidder and submitted as part of his Bid.

## **2.4.6. Schedule of Requirements**

This Section includes the List of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured.

## **2.5. Conditions of contract and contract forms**

### **2.5.1. General Conditions of Contract (GCC)**

This Section includes the general clauses to be applied in all contracts. The text of the clauses in this Section shall not be modified.

## 2.5.2. Special Conditions of Contract (SCC)

This Section consists of Contract Data and Specific Provisions, which contains clauses specific to each contract. The contents of this Section modify or supplement, but not over-write, the General Conditions and shall be prepared by the Purchaser.

## 2.5.3. Contract Forms

This Section contains forms, which, once completed, will form part of the Contract. The successful Bidder shall, only complete the forms for Performance Security and Advance Payment Security, when required, after contract award.

## 2.5.4. Technical Specification

The purpose of the Technical Specifications (TS) is to define the technical characteristics of the Goods and Related Services required by the Purchaser. The Purchaser shall prepare the detailed TS take into account that:

- *The TS constitute the benchmarks against which the Purchaser will verify the technical responsiveness of bids and subsequently evaluate the bids. Therefore, well-defined TS will facilitate preparation of responsive bids by bidders, as well as examination, evaluation, and comparison of the bids by the Purchaser.*
- *The TS shall require that all goods and materials to be incorporated in the goods be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided for otherwise in the contract.*
- *The TS shall make use of best practices. Samples of specifications from successful similar procurements in the same country or sector may provide a sound basis for drafting the TS.*
- *Standardizing technical specifications may be advantageous, depending on the complexity of the goods and the repetitiveness of the type of procurement. Technical Specifications should be broad enough to avoid restrictions on workmanship, materials, and equipment commonly used in manufacturing similar kinds of goods.*
- *Standards for equipment, materials, and workmanship specified in the Bidding Documents shall not be restrictive. Recognized international standards should be specified as much as possible. Reference to brand names, catalogue numbers, or other details that limit any materials or items to a specific manufacturer should be avoided as far as possible. Where unavoidable, such item description should always be followed by the words "or substantially equivalent." When other particular standards or codes of practice are referred to in the TS, whether from the Borrower's or from other eligible countries, a statement should follow other authoritative standards that ensure at least a substantially equal quality, then the standards mentioned in the TS will also be acceptable.*
- *Reference to brand names and catalogue numbers should be avoided as far as possible; where unavoidable the words "or at least equivalent" shall always follow such references.*

- *Technical Specifications shall be fully descriptive of the requirements in respect of, but not limited to, the following:*
  - Standards of materials and workmanship required for the production and manufacturing of the Goods.
  - Detailed tests required (type and number).
  - Other additional work and/or Related Services required to achieve full delivery/completion.
  - Detailed activities to be performed by the Supplier, and participation of the Purchaser thereon.
  - List of detailed functional guarantees covered by the Warranty and the specification of the liquidated damages to be applied in the event that such guarantees are not met.
  - The TS shall specify all essential technical and performance characteristics and requirements, including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, the Purchaser shall include an additional ad-hoc bidding form (to be an Attachment to the Bid Submission Sheet), where the Bidder shall provide detailed information on such technical performance characteristics in respect to the corresponding acceptable or guaranteed values.
  - When the Purchaser requests that the Bidder provides in its bid a part or all of the Technical Specifications, technical schedules, or other technical information, the Purchaser shall specify in detail the nature and extent of the required information and the manner in which it has to be presented by the Bidder in its bid.

## **2.6. Setting of criteria for bid evaluation**

The Public Body has to indicate clearly the bid evaluation criteria in the evaluation and qualification criteria section of the standard bidding document.

Selection of a successful bidder shall be carried out in either of the following two methods, notwithstanding that the bid evaluation criteria varies from one type of procurement to another:-

- *Setting the minimum technical requirement and selecting the bidder with the lowest evaluated bid from among the bidders meeting such minimum technical requirements, or*
- *Indicating clearly in the bidding document the criteria to be applied to determine the functional or economic value of the procurement and the relative weight to be ascribed to each criterion and selecting the bidder with the highest cumulative result by conducting evaluation based on these criteria.*

### **2.6.1. Validity period of bid**

The Public Body shall carefully decide the validity period of the bid and indicate same in the bidding document. While the validity period of bid document or bid price varies depending on the type of the procurement, the Public Body shall take the following matters into consideration in fixing the period.

- *The complexity of the procurement in question and the estimated time required for the bid proceeding.*
- *The estimated number of candidates participating in the bid.*
- *The experience of the Public Body in evaluating bids of similar nature*
- *The price volatility of the procurement*

Public bodies have to complete bid proceedings within the validity period of bid documents and sign contracts with successful bidders however, where the Public Body realizes that for reasons beyond its control the price validity period expires before the completion of the bid proceeding, it shall request bidders to extend the validity period of their bid price.

The extension of bid validity a Public Body has to require of bidders shall only be for such time as is necessary to complete the remaining part of the bid proceeding. However, bidders who are not willing to extend their price validity period for whatever reason shall be disqualified from the bid without having forfeited their bid security.

Bidders agreeing to the Public Body's request for extension of their price validity period have to express in writing their agreement to such request and for how long they are willing to extend the period. Similarly, they have to amend the validity period of their bid security on the basis of the extension of the price validity period they have agreed to, or alternatively, furnish new bid security to cover the extended period.

A bidder not agreeing to extend the validity period of his/its bid security shall be treated as a bidder refusing the Public Body's request for extension of price validity period, and as such, shall be disqualified from the bid.

### **2.6.2. Bid Security**

Except for procurement of consultancy services, Public bodies have to fix and clearly indicate in the bidding document, the amount and mode of bid security to be required of bidders in respect of each procurement when executing procurement by means of open, restricted or two stage bidding. However, the Public Body may require bidders to furnish bid security for consultancy service if, for any reason, such Public Body finds it necessary to do so.

The amount of bid security a Public Body may require shall be in the range of 0.5% to 2% of the total estimated contract price, which the Public Body has to fix and indicate in the invitation to bid and the bidding document.

However, the bid security to be fixed by the Public Body shall not exceed 500,000.00 (five hundred thousand) birr.

When fixing the amount of bid security Public Bodies shall take the following points into account:-

- *The volatility of the price of the required object of procurement.*
- *the availability of adequate number of candidates to participate in the bid,*
- *That the bid security required of candidates doesn't discourage them from participating in the bid.*

- *that the bid security urges the successful bidder to sign the contract*
- *That the bid security is sufficient to compensate the damage the Public Body may sustain as a result of the successful bidder refusing to sign the contract.*

The bid security may at the bidder's option be in the form of cash, cheque certified by a reputable bank, bank guarantee or letter of credit.

Local contractors engaged in construction service may provide bid security in the form of conditional insurance bond.

The validity period of bid security provided by bidders should extend for at least 28 days after the expiration of bid price validity.

The bid security furnished by foreign bidders from a bank outside of Ethiopia has to be unconditional and certified or counter guaranteed by local banks.

The commission or omission of the following acts by any bidder may result in the forfeiture of bid security to the Public Body:-

- *Withdrawing from a bid after the dead line for submission of bids stated in the bidding document or before the expiration of the price validity period indicated in the bid document.*
- *Refusing to sign the contract or to furnish the performance security after award.*

### **2.6.3. Receipt of bid document**

Public bodies have to make available a bid box for collection of bid document from bidders. The bid box shall be placed at the location stated in the bidding document and remain open throughout the bid floating period.

The bid box shall be kept securely and the key of the box shall be in the possession of the head of the procurement unit until the day of the bid opening.

As far as possible, all bid documents shall be placed inside the bid box; however, where the bid box cannot accommodate bid documents, the Public Body shall assign an employee to collect bid documents from bidders as of the day of publication of the invitation to bid.

The Public Body shall issue receipt for bid documents it receives from bidders in acknowledgement of receipt; the employer in charge of the procurement in question shall be responsible for the security of the bid documents received accordingly.

Bid documents received after the dead line for submission of bids shall be returned to the bidders concerned without the envelopes containing the bid documents being opened.

### **2.6.4. Bid Opening**

Bids shall be opened in public at the time and place stated in the **invitation** to bid or in the document amending such invitation to bid.

**The bid:-**

- *Shall be opened in the presence of the bidders or their authorized representatives. However, the opening of the bid shall not be affected by the absence of the bidders on their own will.*
- *To the extent that it doesn't interfere with the bid opening process and there is enough space, any representative of mass-media or any other interested observer may attend the bid opening ceremony*
- *As far as possible, a representative of internal audit of the Public Body shall be present during the bid opening.*
- *At least 3 employees from the procurement unit shall participate in the bid opening process and to the extent possible, representatives from departments of the Public Body benefiting from the procurement may attend the bid opening process.*

For bid documents required to be submitted in one envelope, the Public

Body shall open each bid and read out the name of the bidder, the bid price for the contract and rebate offered by that bidder and the bidder's conditions for such rebate, the amount and kind of bid security, and any other information enabling bidders to know their relative position in the bid concerned.

Where bid documents are required to be submitted in two envelopes:-

- *The envelope containing the technical proposal shall first be opened in the bid opening process and the name and other salient points of the bid shall be read out.*
- *The envelopes containing the financial proposals of all bidders shall be put into one large envelope unopened. The large envelope containing the financial proposals shall be properly sealed and labeled with the bid identification number and a statement indicating that the envelopes therein contain financial proposals written on it and employees of the Public Body executing the bid opening proceeding putting their respective signatures on it. The large envelope containing the financial proposals shall remain sealed and kept carefully under the custody of the procurement unit or any other unit entrusted with the custody of the envelope until the second bid opening preceding.*
- *The result of the technical evaluation shall be communicated in writing to all bidders at the same time who participated in the bid after approval by the competent body.*
- *The letter of notification to be written to the unsuccessful bidders on the technical evaluation shall state the reason for not being chosen as the successful bidder. The unsuccessful bidders have the right of complaint against the result of the evaluation. The procedure in accordance of which such complaints may be lodged and reviewed.*
- *The letter of notification to be written to bidders whose technical proposals have been accepted by the Public Body shall state the time and place of opening of the financial proposals. The notification shall be sent to all such bidders at the same time and adequate time should be given to all bidders wishing to attend the financial envelopes opening proceeding. However, if a complaint is lodged against the result of the technical evaluation, the financial proposals shall not be opened pending decision on such complaint.*



- *The financial proposals shall be opened in the presence of the bidders whose technical proposals have been accepted and to whom letter of notification is written to attend the proceeding.*
- *The envelopes containing the financial proposals of bidder successful in the technical evaluation shall be opened and the name of the bidder, the price offered and any discount given by such bidder and the conditions for such discount, and any other information related to price shall be read out to inform the bidders.*
- *Upon disclosure of the result of the technical evaluation, the bid security and the envelopes containing the financial proposals shall be returned unopened to the unsuccessful bidders. If, however, a complaint is lodged against the result of the technical evaluation the bid security and the financial envelopes shall not be returned to the unsuccessful bidders pending final decision on such complaints.*

The procurement unit of the Public Body shall record the minutes of the bid opening. Such minutes shall contain the names of the bidders, their bid price and any other salient points raised in the bid opening proceeding. The minutes and the original bid documents shall be signed by employees conducting the bid proceeding. Bidders present during the bid opening shall sign the attendance sheet.

Any bid document not opened and read out during the bid opening proceeding shall not be considered for further evaluation.

No bidder shall be disqualified from a bid at the time of bid opening proceeding.

### **3. Evaluating and comparing bids**

#### **3.1. Preliminary evaluation**

A Public Body may find a bid complete and qualify that bid for detailed evaluation only if the bid document submitted by the bidder is opened during the bid opening proceeding and complies with the prerequisites and essential requirements stated in the bidding document.

Public Body may put a bid for detailed evaluation under the following conditions:

- *Where the bid does not meet the minimum quality and other essential requirements set forth by the Public Body and, therefore, is found to be non-responsive at first sight;*
- *Where the bidder is not willing to accept corrections of Arithmetical errors made.*
- *Where the bidder does not furnish the bid security or is not willing to furnish the performance bond required by the Public Body;*
- *Where the bidder does not produce evidence of facts that need to be proven in connection with the procurement.*

Public Body may correct Arithmetical errors detected during preliminary evaluation of bid documents. The Public Body shall promptly notify the bidder in writing of such corrections. If

the bidder does not agree to such corrections, the bidder shall be dropped out of the bid proceeding.

A Public Body may accept a bid as complete notwithstanding that such bid contains elements representing certain variance with the bidding document, in so far as such elements do not alter the conditions of contract and other essential requirements forming the fundamental aspect of the bidding document, or bears minor errors or deviations which can be corrected without affecting the essence of the bid. However, such deviations shall, as far as possible, be expressed in monetary terms to be taken account of in the Evaluation of bids.

### **3.2. Evaluating bids and selecting the successful bidder.**

In order to identify the successful bidder, the Public Body shall conduct detailed evaluation of bids it receives at the initial stage of the bid proceeding, on the basis of the requirements set forth in the bidding document. The Public Body may not evaluate bids against other criteria than those stated in the bidding document. The Public Body shall conduct the evaluation by applying either of the following methods; as indicated in the bidding document:

- *In respect of bids submitted in one envelope, by selecting the bidder offering the lowest evaluated bid from among bidders submitting responsive technical proposals.*
- *In respect of bids submitted in two envelopes, by selecting the bidder scoring the highest point in the total sum of results of the technical and financial evaluation conducted on the basis of criteria applied to determine the functional value of the procurement.*

In conducting detailed evaluation of bids, the unconditional discount offered by bidders shall be considered.

If necessary, verification may be done in post qualification to ascertain whether a bidder has the legal competence to transact with the Public Body, or possesses the necessary financial and technical qualification stated in the bidding document.

Unless otherwise stated, price offered by bidders in respect of procurement executed by means of international competitive bidding and the evaluation thereof shall include taxes.

Where two bidders get equal merit points in the evaluation, preference shall be given to local products or services.

The Public Body may require bidders scoring equal merit points in the evaluation to submit further proposals on certain aspects of the bid with a view to identifying the successful bidder. For the purpose of singling out the successful bidder from among bidders getting equal points in the evaluation,

- *The number of evaluation criteria shall not be more than three and shall be such that can be expressed in figures;*
- *The criteria shall be stated in the bid data sheet of the bidding document.*
- *Bidders scoring equal merit points shall be notified of that fact and such bidders are invited to submit final proposals in accordance with the requirements stated in the bidding document.*

- *The final proposals submitted by the bidders scoring equal points shall, as far as possible, be opened and read out in their presence.*
- *The proposals shall be evaluated and the bidder submitting the better proposal shall be declared the successful bidder.*
- *Where by reason of the bidders scoring equal merit points not submitting final proposals they are invited to submit, or by reason of the evaluation result of the final proposals submitted by the bidders being still equal, the successful bidder cannot be singled out, the successful bidder shall be determined by casting lot in the presence, as far as possible, of the bidders concerned.*

To the extent that the criteria the Public Body applies to select the successful bidder is known, it shall be stated in the bidding document that the quantity of goods to be supplied could increase or decrease by 20% without the unit price offered for such goods or the terms and conditions stated in the bidding document being changed.

Public Bodies shall complete and disclose bid evaluation results to bidders concerned before the expiration of price validity period offered by such bidders. However, if the Public Body cannot complete the evaluation within such period, it shall require the bidders to extend their bid price validity period.

Where an invitation to bid attracts only one bidder, the Public Body may sign contract with that bidder if the proposal submitted by such bidder is satisfactory to the Public Body and the price offered by the bidder is comparable to or less than the market price of the required object of procurement; it being necessary to make sure that the failure of the bid to attract bidders is not due to the fact that the content of the bidding document is restrictive of open competition.

### 3.3. Re-advertising bids

A Public Body shall issue invitation to bid for a second time under the following circumstances:

- *Where the Public Body finds it advisable to re-advertise the bid owing to the best price offered by a bidder is significantly higher than the market price estimate of the object of procurement made by the Public Body prior to the issuance of the invitation to bid;*
- *Where it is concluded that non-compliance with the rules and procedures governing bids prescribed by the proclamation and this directive led to the failure of the invitation to bid to attract more than one bidder, or where it is believed that modifying the bidding document could attract adequate number of bidders.*

### 3.4. Disqualification of bidders

A Public Body may disqualify a bidder for any of the following reasons:

- *Where a bidder offers to supply the required objects of procurement originating in a country in respect of which the government of the Federal Democratic Republic of Ethiopia has imposed trade ban;*
- *Where the bidder offers to supply the required objects of procurement originating in a country under trade embargo of the Security Counsel of the United Nations in which transacting with any business organization or individual who is the national of that country is prohibited;*
- *Where the bidder commits an act of violating the provisions of the proclamation and this directive;*
- *Where the bidder is debarred by a decision of the Agency from participating in public procurements for breach of its obligation under previous contract;*
- *Where it is proved that the bidder has given or has offered to give inducement or bribe to an official or procurement staff of the Public Body to influence the result of the bid in his favor;*
- *Where it is proved that the bidder has committed an act of embezzlement, fraud or involvement with other bidders.*

### 3.5. Discussion with bidders.

A Public Body may hold discussion with bidders in a procurement proceeding only where it encounters extraordinary situations. Such discussions are held for two purposes:

- *To exchange views with bidders on minute details of a procurement;*
- *To arrive at a decision through negotiation with bidders on the technical requirements of a bid in procurement to be executed by means of two stage bidding.*

Public Body may not require nor allow bidders to change their offer in regard to price and other essential elements of the bid, apart from seeking bidders to give it clarification on certain points of their proposal for the purpose of evaluation after bid opening.

### 3.6. Approving bids

The procurement unit or the adhoc committee formed to conduct evaluation of bids in regard to certain procurement shall complete the evaluation and submit the result together with its recommendation, to the Procurement Endorsing Committee or other body having the authority to approve bid evaluation results, within the bid validity period offered by the bidders.

The Procurement Endorsing Committee established in accordance with the proclamation and this directive shall examine the evaluation report in light of the procurement rules and procedures as well as against the requirements of the bidding document and give either of the following decisions:

- *Approve the evaluation report as a whole and authorize the procurement to Proceed accordingly;*
- Reject the report and order re-evaluation.

Where the Procurement Endorsing Committee finds it necessary, it may require the persons conducting the evaluation to account for the evaluation report.

Where the Procurement Endorsing Committee rejects the report it shall state the reason for its decision and refer the case back to the evaluation team with instruction for the team to follow and re-evaluating the bids in question. The evaluation team shall conduct re-evaluation in accordance with the instruction of the Procurement Endorsing Committee and report the result back to the committee.

The evaluation team or a member thereof objecting to the decision of the committee and the corrective instruction given by the committee has the right to record its/his dissenting opinion. However, the procurement shall be executed in accordance with the decision of the committee.

### 3.7. Announcing the successful bidder

Public Bodies shall announce the result of a bid evaluation to all bidders alike at the same time. The information to be disclosed to the unsuccessful bidders shall be the reason why they did not succeed in their bid and the identity of the successful bidder.

***A letter of award to be sent by the Public Body to a successful bidder shall not constitute a contract between him and the Public Body. A contract shall be deemed to have been concluded between the Public Body and the successful bidder only where a contract containing detailed provisions governing the execution of the procurement in issue is signed.***

A letter of contract award to be sent to a successful bidder shall contain the following information:

- *That the Public Body has accepted his bid;*

- *The total contract price;*
- *The amount of the performance security the successful bidder is required to furnish and the deadline for providing such security.*

Where the successful bidder cannot or is unwilling to sign a contract, the Public Body may either declare the bidder submitting the second most preferred bid the successful bidder or invite such bidder to sign a contract or advertise the bid afresh by assessing the benefit of the two options.

The Public Body shall return to the bidders their bid security on the following conditions:

- *If the successful bidder has signed contract and furnished the required contract security;*
- *If the bid validity period initially offered by a bidder not willing to extend such period has expired or if a bidder is unsuccessful.*

### **3.8. Performance Security**

Except for procurements executed by means of request for quotation or procurement of rental services, a Public Body has to require a supplier under contract with it to furnish performance security in any procurement.

The Successful bidder has to provide performance security within **fifteen days** from signing a contract in the amount of at least ten per cent of the total contract price.

Where a supplier fails to discharge its/his obligation in accordance with the terms and conditions of the contract, the Public Body shall exercise its right over the security and demand or confiscate in whole such security, as the case may be.

The performance security may be returned to the supplier where the Procurement Endorsing Committee ascertains that the noncompliance of the supplier does not affect the interest of, or entail additional cost on the Public Body and is not due to the fault of the supplier.

The Public Body shall be required to submit any document in its possession in relation to a procurement in which it authorizes the return of the performance security to a supplier and account for its action or other competent body if and when required to do so.

- *A conditional insurance bond shall be accepted as performance security in respect of construction contracts or in respect of contracts for supply of drugs with local contractors or manufacturers of pharmaceutical products.*
- *A Public Body may require a consultant to furnish professional indemnity insurance in respect of consultancy service such consultant renders to that Public Body under a contract, where the Public Body finds it appropriate to make provision for any damage it may sustain as a result of possible default on the part of the consultant.*
- *Small and micro enterprises shall be required to submit a letter of guarantee from the body organizing and overseeing them in lieu of performance security.*

- *Enterprises engaged in insurance business and contracting with a Public Body may use their reserve with the National Bank of Ethiopia as performance security, it being necessary for such enterprises to produce a certificate from the bank that the reserve they have with the bank is sufficient to cover the required performance security.*

Unless the parties agree otherwise, the performance security furnished by a supplier shall be returned to him upon complete performance of the contract.

### **3.9. Advance payment**

In any public procurement, advance may be paid in an amount not exceeding 30% of the total contract price. The amount to be paid in advance shall be stated in the instruction to bidders.

Suppliers shall submit advance payment security in an amount equal to the advance payment they receive in the form of a certified cheque or unconditional bank guarantee at their option from a reputable bank, together with their request for advance payment as per the contract.

Domestic contractors and manufacturers of pharmaceutical products and medical equipment may submit conditional advance payment security from reputable insurance company.

Small and micro-enterprises, a Public Body may, where appropriate, require the opening of special bank account into which the advance payment may be deposited, which shall be withdrawn by joint signature of the representative of the Public Body and the supplier for payment of expenditure arising from the performance of the contract.

Where the advance payment security provided by a contractor in the performance of a construction contract is conditional, or in respect of advance payment made in favor of a small and micro- the Public Body shall enter into special agreement with the contractor or the small and micro-enterprise as the case may be, for the use of the advance payment.

Such agreement inter alia includes the following:-

- *That the advance to be paid to the contractor or the small or microenterprise in accordance with the contract shall be deposited in a special bank account to be opened for this purpose in the name of the contractor or the small or micro-enterprise.*
- *That the advance to be deposited in the account to be opened only be withdrawn by joint signature of the Public Body and the supplier*
- *That payment shall be effected to the contractor or small or microenterprise from the amount deposited in the special account where it is ascertained that the contractor or small or micro-enterprise has performed part of its obligation under the contract corresponding to the payment disbursed to it/ him.*
- *That in respect of road construction contract performed by a local contractor, up to 50% (fifty percent) of the advance payment and in respect of building construction contract*

*performed by a local contractor, up to 30% (thirty percent) of the advance payment may be used for acquisition of equipment*

### **3.10. Signing of Contract**

Any Public Body has to sign with a supplier, a contract containing the general conditions of contract forming an integral part of the bidding document and the special conditions of contract to be agreed upon by and between it and the supplier.

***Unless a contract is signed between the Public Body and the supplier, mere notification of award doesn't constitute a contract between the Public Body and the supplier.***

The contract to be signed between the Public Body and the supplier shall clearly state the obligations of the two parties and incorporate provisions, inter alia, for the following matters:-

- *The type, quality and quantity of the goods to be supplied, the works to be executed, or the consultancy or other services to be rendered as per the contract, the manner and schedule of delivery of such goods, works or services, the unit and the total price to be paid for such goods, works or services and the terms and schedule of payment.*
- *Identifying the party responsible for securing the provision of incidental services (Transport, Insurance, transit etc) from third parties, it being necessary to obtain such services from reliable sources,*
- *Discount and other offers proposed by the supplier in its bid document and the application of such offers,*
- *Procedure for resolution of disputes that may arise in the performance of the contract,*
- *The portions from the total payment to be effected in foreign and local currency for a foreign supplier,*
- *Procurement document forming an integral part of the contract and the scope of application of such documents.*
- *The conditions giving rise to forfeiture of performance security,*
- *The liability of the supplier for delay in supplying the goods, performing the works or rendering the services as per the contract.*

The liability of the supplier for delay in performing his/its obligation under the contract shall be as follows:-

- *It shall pay a penalty of 0.1% or 1/1000 of the value of undelivered item for each day of delay,*
- *The cumulative penalty to be paid by the supplier shall not exceed 10% of the contract price.*



- *If the delay in performing the contract affects its activities, the Public Body may terminate the contract by giving advance notice to the supplier, without any obligation to wait until the penalty reaches 10% of the value of the contract.*

The Public Body has to carefully consider the obligations and liabilities it may have to assume under a contract; it may not sign a contract involving obligations that it cannot fulfill.

Unless an exceptional situation arises, the successful bidder has to sign a contract with the Public Body within 15 days of notification of award.

The Public Body shall not sign a contract before seven working days from the date bidders are notified of the result of their bid or of any complaint against the bid proceeding.

## **4. Other Methods of Procurement**

### **4.1. Procurement by Restricted Bidding**

Procurement made by means of restricted tendering shall be executed in accordance with national or International competitive bidding procedures.

Procurement made by means of restricted tendering shall be carried out in compliance with the following rules.

- *The invitation to bid shall be sent directly to the address of the candidate and:*
- *If the required object of procurement is available only with limited suppliers, the invitation to bid shall be sent directly to the respective addresses of those suppliers*
- *At least five candidates shall be selected in a fairly manner from the suppliers list if the value of the procurement.*
- *The Public Body shall not disclose the identity of candidates invited to participate in procurement by restricted bidding*
- *If all the candidates invited to participate in procurement by restricted bidding have submitted their bid documents before the date set for expiration of the floating period, the Public Body shall fix a new date for bid opening and communicate this to all candidates to be present on that date without having to wait until the initial closing date.*
- *The Public Body in its discretion may waive collecting from candidates charges for bidding documents and send to such candidates the bidding document together with the invitation to bid.*
- *If the Public Body is of the opinion that in view of their limited number, requiring the candidates to furnish bid security discourages them from participating in the bid. It may, in lieu of bid security, require them to sign bid declaration form.*

## 4.2. Two-Stage Bidding

**In the case of contracts for:**

- *Large complex facilities awarded as single responsibility (including as turnkey) contracts for the design, supply and installation, or single responsibility contracts for the supply and installation of a facility or plant;*
- *Works of a complex and special nature; or*
- *complex information and communication technology that are subject to rapid technology advances,*

It may be undesirable or impractical to prepare complete technical specifications in advance. Due to the complex nature of such contracts and in order to avoid deviations from employer specifications, the Public Body may require the use of a two-stage bidding procedure.

- *First un-priced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and*
- *Adjustments, to be followed by amended bidding documents and the submission of final technical and priced bids in the second stage.*

### 4.2.1. Prequalification of Bidders

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 single responsibility (including 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 eligible bidders to perform the particular contract satisfactorily, taking into account objective and measurable factors, including:

- *Relevant general and specific experience, and satisfactory past performance and successful completion of similar contracts over a given period;*
- *Financial position; and where relevant;*
- *Capability of construction and/or manufacturing facilities.*

### 4.2.2. Shopping

Shopping is a procurement method based on comparing price quotations obtained from several suppliers (in the case of goods), from several contractors (in the case of civil works), or service providers (in the case of non-consulting services) with a minimum of three, to assure competitive prices, and is an appropriate method for procuring limited quantities of readily available off-the-shelf goods or standard specification commodities of small value, or simple

civil works of small value when more competitive methods are not justified on the basis of cost and efficiency.

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.

### **4.2.3. Direct Contracting**

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

- *An existing contract for goods, works and non-consulting services, awarded in accordance with procedures acceptable to the Public Body, may be extended for additional goods, works and non-consulting services of a similar nature. The Public Body 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;*
- *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 Public Body;*
- *The required equipment is proprietary and obtainable only from one source;*
- *The procurement of certain goods from a particular Supplier is essential to achieve the required performance or functional guarantee of an equipment, plant or facility;*
- *In exceptional cases, such as, but not limited to, in response to natural disasters and emergency situations*

## **5. Selection and Employment of Consultant**

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

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.

The selection process shall include the following steps:

- *Preparation of the TOR;*
- *Preparation of cost estimate and the budget, and short listing criteria;*
- *Advertising;*
- *Preparation of the short list of consultants;*
- *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];*
- *Receipt of proposals;*
- *Evaluation of technical proposals: consideration of quality;*
- *Public opening of financial proposals;*
- *Evaluation of financial proposal;*
- *Final evaluation of quality and cost; and*
- *Negotiations and award of the contract to the selected firm.*

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

The Public Body 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 Public Body's and consultants' respective responsibilities should be clearly defined in the TOR.

### **5.2. Quality-Based Selection (QBS)**

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, multi-sector 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).

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 time of key experts, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

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

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. The RFP shall clearly indicate whether the budget includes taxes or levies payable in the Borrower country, and the price of any inputs provided by the client. The evaluation of all technical proposals shall be carried out first as in the QCBS method. 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.

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

This method is generally 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 are rejected, and the financial proposals of the rest shall be opened. The firm with the lowest price shall then be selected. 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.

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

This method may be used for small assignments or emergency situations for which the need for issuing an RFP, and preparing and evaluating competitive proposals is not justified. In such cases, the Public Body shall prepare the TOR and obtain expressions of interest that include information on their experience and qualifications, eventually through a REOI as may be needed, from as many firms as possible, and at least three qualified, firms with relevant experience. Firms having the required experience and competence relevant to the assignment shall be assessed and compared, and the best qualified and experienced firm shall be selected. Only the selected firm shall be asked to submit a combined technical and

financial proposal and, if such proposal is responsive and acceptable, be invited to negotiate a contract. Both technical and financial aspects of the proposal may be negotiated. The minutes of negotiations shall be prepared and signed by both parties.

## 5.6. Single-Source Selection (SSS)

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 Public Body's responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

Single-source selection may be appropriate in the following cases, and only if it presents a clear advantage over competition:

- *For tasks that represent a natural continuation of previous work carried out by the firm*
- *In exceptional cases, such as, but not limited to, in response to natural disasters and for emergency situations.*
- *For very small assignments, or*
- *When only one firm is qualified or has experience of exceptional worth for the assignment.*

In all such cases, the employer is not required to issue an RFP.

## 5.7. Selection of Individual Consultants

Individual consultants are employed on assignments for which

- *A team of experts is not required,*
- *No additional outside (home office) professional support is required, and*
- *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.

# 6. Major Types of Contracts

## 6.1. Lump Sum Contract

This type of contract is used mainly for assignments in which the scope and the duration of the services and the required output of the consultants are clearly defined. It is 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. The contract shall include a fixed price for the activities to be carried out by the consultant and shall not be subject to any price adjustment, Lump sum contracts are easy to administer because they operate on the principle of fixed price for a fixed scope, and payments are due on clearly specified outputs and milestones.

## **6.2. Time-Based Contract**

This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. It 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 experts (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for experts include remuneration, social costs, overhead, profit, and, where appropriate, special allowances. The contract shall include a ceiling amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen services and duration, and a provision for price adjustment for inflation. 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.

## **7. Reference**

- Federal Public Procurement Proclamation 649-2001
- Federal Public Procurement Directive June 2010 & Amendment
- Guidelines Procurement Of Goods, Works, And Non-Consulting Services Under Ibrd Loans And Ida Credits & Grants By World Bank Borrowers January 2011 Revised July 2014
- Guidelines Selection And Employment Of Consultants Under Ibrd Loans And Ida Credits & Grants By World Bank Borrowers January 2011 Revised July 2014