



## 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), a credit or grant from the International Development Association (IDA),<sup>1</sup> a project preparation advance (PPA), a grant from the Bank, or a trust fund administered by the Bank and executed by the recipient,<sup>2</sup> of the policies that govern the procurement of goods, works, and non-consulting services<sup>3</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, works, and non-consulting services for the project, as provided in the agreement. The rights and obligations of the Borrower and the providers of goods, works, and non-consulting services for the project are governed by the bidding<sup>4</sup> documents, and by the contracts signed by the Borrower with the providers of goods, works, and non-consulting services, 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>5</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>6</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:

- <sup>1</sup> Procurement 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 or grants, grants from the Bank, trust funds administered by the Bank and executed by the recipient, and project preparation advances (PPAs). References to "*Loan Agreement*" include the legal agreement between the Bank and Borrower, and may include the project agreement between the Bank and project implementing entity. References to "*Borrower*" include loan, credit, grant, and PPA recipients that execute such projects, and may include sub-borrowers or project implementing entities.
- <sup>2</sup> To the extent that the agreement providing for such trust funds to be administered by the Bank does not conflict with these provisions as exceptions, including under the UN Fiduciary Principles Accord (FPA) or a Multi Donor Trust Fund (MDTF) in emergency situations.
- <sup>3</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, vehicles, and industrial plant. The provisions of these Guidelines also apply to non-consulting services for which the physical aspects of the activity predominate, are bid and contracted on the basis of performance of a measurable physical output, and for which performance standards can be clearly identified and consistently applied, such as drilling, aerial photography, satellite imagery, mapping, and similar operations. These Guidelines do not refer to consulting (e.g., advisory) services, to which the current *Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits & Grants by World Bank Borrowers* apply (referred to herein as Consultant Guidelines).
- <sup>4</sup> For the purposes of these Guidelines, the words "*bid*" and "*tender*" shall have the same meaning.
- <sup>5</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>6</sup> The Bank's Articles of Agreement, Article III, Section 5(b); and IDA's Articles of Agreement, Article V, Section 1(g).



- (a) the need for economy and efficiency in the implementation of the project, including the procurement of the goods, works, and non-consulting services involved;
- (b) the Bank's interest in giving all eligible bidders from developed and developing countries<sup>7</sup> the same information and equal opportunity to compete in providing goods, works, and non-consulting services 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>8</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 non-consulting services through ICB open to eligible suppliers, service providers, and contractors.<sup>9</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 1.18 of these Guidelines.

#### Applicability of Guidelines

1.5 The principles, rules, and procedures outlined in these Guidelines apply to all contracts for goods, works, and non-consulting services financed in whole or in part from Bank loans.<sup>10</sup> The provisions described under this Section I apply to all other Sections of the Guidelines. For the procurement of those contracts for goods, works, and non-consulting services not financed in whole or in part from a Bank loan, but included in the project scope of the loan agreement, the Borrower may adopt other rules and 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, works, and non-consulting services to be procured:

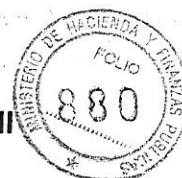
<sup>7</sup> See paragraphs 1.8, 1.9, and 1.10.

<sup>8</sup> For purposes of these Guidelines, "Contractor" refers only to a firm providing construction services.

<sup>9</sup> See paragraphs 1.8, 1.9, and 1.10.

<sup>10</sup> This includes contracts procured by a Procurement Agent or Construction Manager employed by the Borrower under paragraph 3.11 of these Guidelines.

The Bank may agree to the use of the public procurement systems of the Borrower's country—referred to as the Use of Country System (UCS)—for procurement under paragraph 3.20 of these Guidelines. In such cases, the Loan Agreement between the Borrower and the Bank shall describe the applicable procurement procedures of the Borrower, and the full application of Section I and any other parts of these Guidelines as may be deemed relevant by the Bank.



- (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.

### Conflict of Interest

1.6 Bank policy requires that a firm participating in a procurement process under Bank-financed projects shall not have a conflict of interest. Any firm found to have a conflict of interest shall be ineligible for award of a contract.

1.7 A firm shall be considered to have a conflict of interest in a procurement process if:

- (a) such firm is providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of a project that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm. 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 built contract;<sup>11</sup> or
- (b) such firm submits more than one bid, either individually or as a joint venture partner in another bid, except for permitted alternative bids. This will result in the disqualification of all bids in which the Bidder is involved. However, this does not limit the inclusion of a firm as a sub-contractor in more than one bid. Only for certain types of procurement, the participation of a Bidder as a sub-contractor in another bid may be permitted subject to the Banks' no objection and as allowed by the Bank's Standard Bidding Documents applicable to such types of procurement; or
- (c) such firm (including its personnel) has a close business or family relationship with a professional staff of the Borrower (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Bank throughout the procurement process and execution of the contract; or
- (d) such firm does not comply with any other conflict of interest situation as specified in the Bank's Standard Bidding Documents relevant to the specific procurement process.

### Eligibility

1.8 To foster competition, the Bank permits firms and individuals from all countries to offer goods, works, and non-consulting services for Bank-financed projects. Any

<sup>11</sup> See paragraph 2.4.



conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question.<sup>12</sup>

1.9 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 participation in a procurement process or award to a firm for reasons unrelated to: (i) its capability and resources to successfully perform the contract; or (ii) the conflict of interest situations covered under paragraphs 1.6 and 1.7 above.

1.10 As exceptions to the foregoing paragraphs 1.8 and 1.9:

- (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, works, and non-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 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) Government-owned enterprises or institutions of the Borrower's country may participate in the Borrower's country 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>13</sup>
- (c) A firm sanctioned by the Bank in accordance with paragraph 1.16(d) of these Guidelines, or the World Bank Group Anti-Corruption policies and sanctions procedures,<sup>14</sup> shall be ineligible to be awarded a Bank-financed contract or to benefit from a Bank-financed contract, financially or in any other manner, during the period of time determined by the Bank.

#### Advance Contracting and Retroactive Financing

1.11 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

<sup>12</sup> The Bank permits firms and individuals from Taiwan, China to offer goods, works, and non-consulting services for Bank-financed projects.

<sup>13</sup> Other than Force Account units, as permitted under paragraph 3.9.

To be eligible, a government-owned enterprise or institution shall establish to the Bank's satisfaction, through all relevant documents, including its Charter and other information the Bank may request, that it: (i) is a legal entity separate from the government; (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.

<sup>14</sup> For the purpose 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*. The Bank's sanctions procedures are publicly disclosed on the Bank's external website.





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

1.12 Any firm may bid independently or in joint venture either with domestic firms and/or with foreign firms. A joint venture may be for the long term (independent of any particular bid) or for a specific bid. The joint venture shall appoint one of the firms to represent it, and all its members shall sign the contract and be jointly and severally liable for the entire contract. The Bank does not accept conditions of bidding or contracting which require mandatory joint ventures or other forms of mandatory association between firms.

### Bank Review

1.13 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>15</sup> shall specify the extent to which these review procedures shall apply in respect of the different categories of goods, works, and non-consulting services to be financed, in whole or in part, from the Bank loan.

### Misprocurement

1.14 The Bank does not finance expenditures under a contract for goods, works, or non-consulting services if the Bank concludes that such contract: (a) has not been awarded in accordance with the agreed provisions of the Loan Agreement and as further elaborated in the Procurement Plan to which the Bank provided no objection; (b) could not be awarded to the bidder otherwise determined successful due to willful dilatory conduct or other actions of the Borrower resulting in unjustifiable delays, the successful bid being no longer available, or the wrongful rejection of any bid; or (c) involves the engagement of a representative of the Borrower, or a recipient of any part of the Loan proceeds, in fraud and corruption as per paragraph 1.16(c). In such cases, whether under prior or post review, the Bank will declare misprocurement, and it is the Bank's policy to cancel that portion of the loan allocated to the goods, works, or non-consulting 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 and apply in full its policies and remedies regardless of whether of the loan has closed or not, if it concludes that the no objection was issued on the basis of incomplete, inaccurate, or misleading

<sup>15</sup> See paragraph 1.18.



information furnished by the Borrower or the terms and conditions of the contract had been substantially modified without the Bank's no objection.

### Reference to Bank

1.15 The Borrower shall use the following text<sup>16</sup> when referring to the Bank in procurement documents:

"[Name of 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.<sup>17</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>18</sup>

### Fraud and Corruption

1.16 It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts.<sup>19</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" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;<sup>20</sup>
  - (ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;<sup>21</sup>

<sup>16</sup> To be suitably modified in the case of a credit from IDA or a grant or a trust fund.

<sup>17</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>18</sup> Substitute "credit," "International Development Association," and "Credit Agreement," as appropriate.

<sup>19</sup> In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

<sup>20</sup> For the purpose of this sub-paragraph, "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>21</sup> For the purpose of this sub-paragraph, "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" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;<sup>22</sup>
- (iv) "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;<sup>23</sup>
- (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 paragraph 1.16(e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing Bank's sanctions procedures,<sup>24</sup> including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be

<sup>22</sup> For the purpose of this sub-paragraph, "parties" refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other's bid prices or other conditions.

<sup>23</sup> For the purpose of this sub-paragraph, "party" refers to a participant in the procurement process or contract execution.

<sup>24</sup> A firm or individual may be declared ineligible to be awarded a Bank financed contract upon: (i) completion of the Bank's sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of these Guidelines.



awarded a Bank-financed contract; and (ii) to be a nominated<sup>25</sup> sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract;

- (e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank; and
- (f) will require that, when a Borrower procures goods, works or non-consulting services directly from a United Nations (UN) agency in accordance with paragraph 3.10 of these Guidelines under an agreement signed between the Borrower and the UN agency, the above provisions of this paragraph 1.16 regarding sanctions on fraud or corruption shall apply in their entirety to all suppliers, contractors, service providers, consultants, sub-contractors or sub-consultants, and their employees that signed contracts with the UN agency.

As an exception to the foregoing, paragraphs 1.16(d) and (e) will not apply to the UN agency and its employees, and paragraph 1.16(e) will not apply to the contracts between the UN agency and its suppliers and service providers. In such cases, the UN agencies will apply their own rules and regulations for investigating allegations of fraud or corruption subject to such terms and conditions as the Bank and the UN agency may agree, including an obligation to periodically inform the Bank of the decisions and actions taken. The Bank retains the right to require the Borrower to invoke remedies such as suspension or termination. UN agencies shall consult the Bank's list of firms and individuals suspended or debarred. In the event a UN agency signs a contract or purchase order with a firm or an individual suspended or debarred by the Bank, the Bank will not finance the related expenditures and will apply other remedies as appropriate.

1.17 With the specific agreement of the Bank, a Borrower may introduce, into bid forms for 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>26</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.

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<sup>25</sup> A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

<sup>26</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."





### Procurement Plan

1.18 The preparation of a realistic procurement plan<sup>27</sup> for a project is critical for its successful monitoring and implementation. As part of the project preparation, the Borrower shall prepare a preliminary procurement plan, however tentative, for the entire scope of the project. At a minimum, the Borrower shall prepare a detailed and comprehensive procurement plan including all contracts for which procurement action is to take place in the first 18 (eighteen) months of project implementation. An agreement with the Bank shall be reached at the latest during loan negotiations. The Borrower shall update procurement plans throughout the duration of the project at least annually by including contracts previously awarded and to be procured in the next 12 (twelve) months. All procurement plans and their updates or modifications shall be subject to the Bank's prior review<sup>28</sup> and no objection before implementation. After loan negotiations, the Bank shall arrange the publication on its external website of the agreed initial procurement plan and all subsequent updates once it has provided a no objection.

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<sup>27</sup> The Procurement Plan, including their updates, shall set forth at a minimum (i) a brief description of goods, works, and/or non-consulting services required for the project for which procurement action is to take place during the period in question; (ii) the proposed methods of procurement as permitted under the Loan Agreement; (iii) any provision for the application of domestic preference in accordance with paragraph 2.55; (iv) the Bank review requirement and thresholds; and (v) the time schedule for key procurement activities, and any other information that the Bank may reasonably require. Large numbers of small and similar contracts may be clubbed. For projects or their components that are demand driven in nature such as Community Driven Development (CDD), Sector Wide Approaches (SWAs), etc. where specific contracts or their time-schedules cannot be identified in advance; a suitable template of the Procurement Plan shall be agreed with the Bank for monitoring and implementation of procurement. If the Project includes the procurement of consulting services, the Procurement Plan should also include the methods for their selection in accordance with the *Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits and Grants by World Bank Borrowers*.

<sup>28</sup> See Appendix I.



## 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>29</sup> with timely and adequate notification of a Borrower's requirements and an equal opportunity to bid for the required goods, works, and non-consulting services.

#### 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>30</sup> and for the works.

2.4 In certain cases, in particular for large industrial and power plants and facilities, the Bank may accept or require a single responsibility contract in which discrete items of equipment and works are grouped into a contract package.<sup>31</sup> A single responsibility contract may be a turnkey contract in which one entity assumes total responsibility to provide an industrial plant or facility fully-equipped and ready for operation (at the "turn of the key").<sup>32</sup> Contracts involving construction, installation or assembly, and related services may also be awarded to contractors under management contracts.<sup>33</sup>

2.5 For a project requiring similar but separate items of equipment or works, bids may be invited under a slice and package procedure that would attract the interest of both small and large firms, which could be allowed, at their option, to bid for individual

<sup>29</sup> See paragraphs 1.8, 1.9, and 1.10.

<sup>30</sup> For purposes of these Guidelines, "plant" refers to installed equipment, as in a production facility.

<sup>31</sup> Typically, such single responsibility contracts include various plants, equipment, machinery, materials or parts thereof, and include all procurement activities, the supply and assembly and/or installation of equipment, the construction of a complete facility or specialized works to be incorporated in the facility. Such contracts could be a Supply and Installation contract where the Borrower prepares and remains responsible for basic and detailed engineering and design, or a Design, Supply, and Installation contract where the Contractor prepares and is also responsible for the engineering and design.

<sup>32</sup> A turnkey contract is a single responsibility contract based on a "lump-sum" price under which payments are made as per contractual milestones when they are met. For such contracts, usually only the basic design (i.e. the main parameters of the engineering project) is provided by the Employer.

<sup>33</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, who does not take on such risks. If financed by the Bank, the Construction Manager shall be selected under the Consultant Guidelines (paragraph 3.11).



## ANEXO III

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>34</sup>

### Two-Stage Bidding

2.6 In the case of contracts for: (a) 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; (b) works of a complex and special nature; or (c) 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 the Borrower's specifications, the Bank 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<sup>35</sup> and the submission of final technical and priced bids in the second stage.

### Notification and Advertising

2.7 Timely notification of bidding opportunities is essential in competitive bidding. The Borrower is required to prepare and submit to the Bank a General Procurement Notice. The Bank will arrange for its publication in *UN Development Business online* (*UNDB online*) and on the Bank's external website.<sup>36</sup> The General Procurement Notice shall contain information concerning the Borrower (or prospective Borrower), amount and purpose of the loan, scope of procurement reflecting the Procurement Plan, and the name, telephone (or fax) number, and address(es) of the Borrower's agency(ies) responsible for procurement, and the address of a widely used electronic portal with free national and international access or website where the subsequent 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 on a widely used website or electronic portal with free national and international access, in English, French, or Spanish, or at the option of the Borrower, in a national language as defined under paragraph 2.15. Such invitations shall also be published in *UNDB online*. Notification shall be given in

<sup>34</sup> See paragraphs 2.49 - 2.54 for the bid evaluation procedures.

<sup>35</sup> In revising the bidding documents in the second stage, the Borrower shall respect the confidentiality of the bidders' technical proposals used in the first stage, consistent with requirements of transparency and intellectual property rights.

<sup>36</sup> *UNDB online* 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)). World Bank External Website: [www.worldbank.org](http://www.worldbank.org).



sufficient time to enable prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses.<sup>37</sup> The Bank will arrange the simultaneous publication of all Specific Procurement Notices prepared and submitted by the Borrowers on the Bank's external website.

### 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 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: (a) relevant general and specific experience, and satisfactory past performance and successful completion of similar contracts over a given period; (b) financial position; and, where relevant, (c) capability of construction and/or manufacturing facilities.

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. The Borrower shall use the Standard Prequalification Document issued by the Bank with minimum changes as may be necessary and acceptable to the Bank. 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 the prequalification is completed, the bidding documents shall be made available to the qualified prospective bidders. For prequalification for groups of contracts to be awarded either at the same time or 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 technical capability and financial resources to meet qualification criteria for the combined contracts. When the time elapsed between the Borrower's decision with regard to the list of prequalified firms and the issuance of bid invitations is longer than 12 (twelve) months, the Bank may require that the a new prequalification process be conducted through re-advertisement. The verification of the information upon which bidders were prequalified, including their current commitments, shall be carried out at the time of the award of contract, along with their capability with respect to personnel and equipment. The award may be denied to a bidder that is judged to no longer meet the required qualification criteria with respect to technical capability and financial resources to successfully perform the contract. If none or very few applicants are found to be prequalified, which would result in a lack of competition, the Borrower may issue a revised prequalification invitation subject to the Bank's prior no objection.

<sup>37</sup> See paragraph 2.44.





## 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, works, and non-consulting services 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 and bid data sheet; form or letter of bid; form of contract; conditions of contract, both general and particular; 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 typing, printing or publishing in an electronic format, and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. The bidding documents for works may indicate the estimated total cost of the contract, but shall not indicate detailed Borrower's cost estimates such as priced bills of quantities. The 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. When no relevant SBDs 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, and obtain all the necessary approvals within the Borrower's entity and the Bank's no objection to the recommendation of award (if required in the Procurement Plan) 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>38</sup> and shall remain

<sup>38</sup> The format of the bid security shall be in accordance with the SBDs and shall be issued by a reputable bank or financial institution, such as an insurance, or bonding or surety company, selected by the bidder. If the security is issued by a financial institution that is located outside the country of the Borrower, such financial institution shall have a correspondent financial institution located in the country of the Borrower to make it enforceable. Bidders shall be allowed to submit bank guarantees directly issued by the bank of their choice located in any eligible country.



valid for a period (generally 4 (four) weeks beyond the validity period for the bids) sufficient to provide reasonable time for the Borrower to act if the security is to be called. Bid securities 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 the period of time specified in the bidding documents from being eligible to bid for any contract with the entity that invited bids.

### Language

2.15 Prequalification and bidding documents shall be prepared in one of the following languages, selected by the Borrower: English, French, or Spanish. In addition to one of the above languages, the Borrower has the option to issue translated versions of these documents in another language which should either be: (a) the national language of the Borrower; or (b) the language used nation-wide in the Borrower's country for commercial transactions, hereinafter both are called the "National Language".<sup>39</sup> If these documents are issued in two languages, firms shall have the option to submit their prequalification application or bid, as the case may be, in any one of the two languages in which these documents are issued. The contract signed with the winning bidder shall always be written in the language in which its bid was submitted, which shall be the one that governs the contractual relations between the Borrower and the bidder. If the contract is signed in the National Language, the Borrower shall provide the Bank with an accurate translation of the contract in English, French, or Spanish when submitting the original contract in accordance with Appendix 1. Bidders shall neither be required nor permitted to sign contracts in more than one language.

### 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

<sup>39</sup> The Bank shall be satisfied with the language to be used. The Borrower shall take full responsibility for the correct translation of the documents in the National Language. In case of any discrepancy with the documents in English, French, or Spanish, the text in the latter shall prevail.

If the Borrower has more than one National Language and a national law requires official acts to be issued in all national languages, the Borrower shall use one National Language in the prequalification or bidding documents, and may issue translated versions in the other languages.

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 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). All modifications of bidding documents, including with regard to additional information, clarifications, and corrections of errors, shall be sent to each recipient of the original bidding documents and all bidders on record in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. Any modification to the bidding documents shall be introduced in the form of an addendum. If necessary, the deadline shall be extended. The Bank shall receive a copy (in hard copy or sent electronically) and be consulted for issuing a no objection when the contract is subject to prior review.

#### **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.

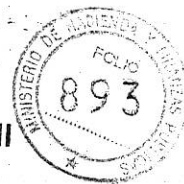
#### **Use of Brand Names**

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. Before the Borrower issues bidding documents for specific goods with a brand name that does not have any equivalent, especially for Information Technology Systems, it shall submit to the Bank for review and no objection a comprehensive justification, including grounds of compatibility with existing systems and previous investments in the branded item.

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### Pricing

2.21 Bids for goods shall be invited on the basis of CIP<sup>40</sup> (place of destination) for all goods manufactured abroad and to be imported. Bids for goods that were previously imported shall be invited on the basis of CIP (place of destination) separately indicating the actual amount of customs duties and import taxes already paid. Bids for goods manufactured in the Borrower's country shall be invited on the basis of EXW<sup>41</sup> (ex works, ex factory, or off-the-shelf) plus cost of inland transportation and insurance to the place of destination. Bidders shall be allowed to arrange for ocean and other transportation and related insurance from any eligible source.<sup>42</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.

2.22 In the case of single responsibility (including turnkey) contracts, the bidder shall be required to quote the price of the installed facility or 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, operation, etc. Unless otherwise specified in the bidding documents, a turnkey contract price shall include all duties, taxes, and other levies.<sup>43</sup>

2.23 Bidders for works and non-consulting services shall be required to quote unit prices or lump sum prices for the performance of the works or non-consulting services, 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 18 (eighteen) months, but shall be included in contracts which extend beyond 18 (eighteen) months. The bidding documents for contracts of shorter duration may also include a similar provision for price adjustment.

<sup>40</sup> Refer for further definitions to the current *Incoterms 2010*, or as revised from time to time, published by the International Chamber of Commerce (ICC), 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>41</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. Manufactured goods include assembled goods.

<sup>42</sup> See paragraphs 1.8, 1.9, and 1.10.

<sup>43</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.





when future local or foreign inflation is expected to be high. However, it is standard 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 shall 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. The formula(e) 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 formulae, to avoid incorrect adjustment. Under exceptional circumstances, bidding documents may provide for price adjustment on the basis of documentary evidence (including actual invoices) provided by the Supplier or Contractor.

### 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. For all contracts, usually an All Risk form of policy shall be specified. For goods and for single responsibility contracts, the indemnity payable under transportation insurance shall be at least 110% (one hundred ten percent) of the CIP price of the goods to be imported in the currency of the contract or in a freely convertible currency to enable prompt replacement of lost or damaged goods. For large construction or supply and install 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 under procedures acceptable to the Bank if the cost of insurance is to be financed by the Bank.

2.27 As an exception, if a Borrower does not wish to obtain insurance coverage through the contract, and wishes to make its own arrangements or to reserve transportation and insurance to national companies or other designated sources, it shall provide evidence satisfactory to the Bank that (a) resources are readily available for prompt payment, in a freely convertible currency among the currencies of payment of the contract, of the indemnities required to replace lost or damaged goods, and (b) risks are adequately covered. In addition, for the import of goods, bidders shall be asked to quote FCA (named place of dispatch) or CPT (named place of destination)<sup>44</sup> prices in addition to the CIP (place of destination) price specified in paragraph 2.21. The 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 arrangements for transportation and/or insurance. Under such circumstances, Bank financing shall be limited to the FCA or CPT cost of the contract.

### 83 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

<sup>44</sup> Incoterms 2010 for free carrier (named place) and for carriage paid to (named place of destination), respectively.



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>45</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 similar transactions on a date selected in advance, with such source and date to be specified in the bidding documents, provided that the date shall not be earlier than 4 (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 payment has been requested in the bid of the successful bidder as per paragraph 2.29.

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.

<sup>45</sup> Hereafter referred to as "local currency".



### Terms and Methods of Payment

2.34 Payment terms shall be in accordance with the international commercial practices applicable to the specific goods, works, and non-consulting services.

- (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 Bank normally requires the use of letters of credit so as to assure prompt payment to the Supplier. In major contracts for equipment and plant, provisions 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, works, and non-consulting services, 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 services to be provided, 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 particular conditions for the specific goods, works, and non-consulting services 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 and Retention Money

2.39 Contracts for works and single responsibility contracts shall require security in an amount sufficient to protect the Borrower in case of breach of contract by the Contractor.