



PROCUREMENT DIRECTIVE FOR ADB BORROWERS

GOODS, WORKS, NONCONSULTING,
AND CONSULTING SERVICES

JANUARY 2026



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© 2026 Asian Development Bank
6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines
Tel +63 2 8632 4444; Fax +63 2 8636 2444
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Note:
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Abbreviations and Terms

Abbreviations

ADB	Asian Development Bank
CMP	Contract Management Plan
CQS	Consultant's Qualifications Selection
FBS	Fixed Budget Selection
FCAS	Fragile and Conflict-Affected Situations
LCB	Limited Competitive Bidding
LCS	Least-Cost Selection
MPC	Merit Point Criteria
OCB	Open Competitive Bidding
QBS	Quality-Based Selection
QCBS	Quality and Cost-Based Selection
RFP	Request for Proposals
RFQ	Request for Quotations
SBD	Standard Bidding Document
SIDS	Small Island Developing States
SPP	Strategic Procurement Planning
UN	United Nations
VfM	Value for Money

Terms

Anticorruption Policy and Investigation and Enforcement Framework	ADB's Anticorruption Policy (1998, as amended from time to time) and Investigation and Enforcement Framework (2024, as amended from time to time).
Beneficial Owner	The natural person(s) who ultimately owns or controls an entity, or for whose benefit the entity is operated, and behind whom there are no further controlling interests.
Bid	An offer, by a firm or joint venture, in response to a request for Bids, to provide the required Goods, Works or Nonconsulting Services. The term may, where the context so requires, be used interchangeably with the term "proposal."
Borrower	A recipient of funds for a project financed in whole or in part by an ADB loan, grant, or ADB-administered funds, and (as applicable) may refer to the executing agency or other entity responsible for the implementation of the ADB-financed project, in each case in the context of ADB's sovereign operations.
Consulting Services	Advisory or professional services provided by consultants with specialized expertise, typically involving areas such as policy development, feasibility and planning studies, environmental assessments, project management, engineering design, construction supervision, training, and other forms of technical or strategic advisory support.
Complaint	A written communication from an Interested Party regarding a specific bidding process, alleging a misapplication or omission of ADB's Procurement Policy or Procurement Directive.
Core Procurement Principles	ADB's Core Procurement Principles (economy, efficiency, fairness, quality, transparency, and value for money) described in ADB's Procurement Policy (2017, as amended from time to time).
Financing Agreement	Agreement between ADB and a Borrower for the financing of a specific project that governs their legal relationship and stipulates the applicability of this Procurement Directive.
Goods	Equipment and materials including commodities, raw materials, machinery, equipment, vehicles, and related services such as transportation, insurance, installation, commissioning, training, and initial maintenance.
Incoterms	International Commercial Terms (Incoterms), published by the International Chamber of Commerce (ICC).

continued on next page

Terms, continued

Interested Party	Any applicant for prequalification, bidder (actual or prospective), party notified of contract award or intention to award, or any party expressing interest in bidding.
Nonconsulting Services	Services that are not Consulting Services, including those contracted based on the performance of measurable physical outputs, or routine services that, while requiring expert input, are based on widely recognized standard offerings.
Post Review (Sampling)	ADB reviews key procurement documents, decisions, and processes on a sample basis, after contract signing.
PPP	A Public–Private Partnership (PPP) is a long-term contract between a private party and a Borrower to provide a public asset or service, in which the private party bears significant risk and management responsibly and remuneration is linked to performance.
Prior Review	ADB reviews and approves key procurement documents and decisions prior to them being implemented.
Procurement Plan	Borrower’s procurement plan for ADB-financed projects, as referred to in paras 4.4–4.7 and incorporated by reference in a Financing Agreement.
Proposal	An offer, in response to a Request for Proposals by one party to provide, typically, Consulting Services to another party. The term may, where the context so requires, be used interchangeably with the term “Bid.”
Standstill Period	A specified duration after notice of intent to award, during which the Borrower informs all bidders and allows unsuccessful bidders to raise concerns or seek clarification.
UN System	Broadly refers to the United Nations departments, specialized agencies, and their regional offices, funds, and programs.
Works	Civil works, including construction, repair, rehabilitation, demolition, restoration, or maintenance of infrastructure. This includes associated services, such as transportation, insurance, installation, commissioning of equipment and materials, and training when these are part of the civil works contract.

I

Introduction

- 1.1 This Procurement Directive for ADB Borrowers—Goods, Works, Nonconsulting, and Consulting Services (2026, as amended from time to time) (Procurement Directive) amends, restates, and supersedes the Procurement Regulations for ADB Borrowers—Goods, Works, Nonconsulting, and Consulting Services (2017, as amended from time to time) (Procurement Regulations).¹
- 1.2 ADB's Board of Directors has approved the Procurement Policy (2017, as amended from time to time), which governs the procurement of Goods, Works, Nonconsulting, and Consulting Services for projects financed in whole or part by an investment loan from ADB, an ADB-financed grant, or by ADB-administered funds.² The Procurement Policy sets out the six Core Procurement Principles that govern ADB's requirements: economy, efficiency, fairness, transparency, quality, and value for money (VfM). In addition, the Procurement Policy recognizes the need for flexible approaches, promotes procurement that is fit-for-purpose, and places an emphasis on governance through accountability, integrity, and avoidance of conflict of interest.
- 1.3 The Procurement Directive sets out the operational procedures to be followed by Borrowers implementing the Procurement Policy.³ The Procurement Directive is supplemented by operational instructions, along with guidance notes, standard bidding documents, and related procurement documents and templates to facilitate project procurement by Borrowers.

¹ References to the Procurement Regulations in all ADB documentation, including documentation associated with ADB-financed projects, refer to this Procurement Directive (as amended from time to time) from the date of its effectiveness (January 1, 2026).

² ADB. 2017. *ADB Procurement Policy: Goods, Works, Nonconsulting, and Consulting Services*. Manila. <https://www.adb.org/documents/adb-procurement-policy>.

³ This Procurement Directive does not apply to results-based or policy-based lending.

II

Applicability

- 2.1 The Procurement Directive is applicable to the procurement of Goods, Works, Nonconsulting, and Consulting Services in projects financed in whole or in part by an investment loan from ADB, an ADB-financed grant, or by ADB-administered funds, as and where provided for in the Financing Agreement.
- 2.2 The Financing Agreement governs the legal relationship between the Borrower and ADB and stipulates the applicability of the Procurement Directive. No party other than the parties to the Financing Agreement shall derive any rights therefrom or have any claim to the proceeds of the financing.
- 2.3 The rights and obligations of the Borrower and the providers of Goods, Works, Nonconsulting, and Consulting Services for a project are governed by the bidding document and, subsequently, by the contracts signed by the Borrower with such providers.
- 2.4 For contracts not financed by ADB that are within the scope of an ADB-financed project, ADB may accept use of the Borrower's procurement rules and procedures for such procurements provided ADB is satisfied that
 - (a) the Borrower's rules and procedures are consistent with the Core Procurement Principles of ADB's Procurement Policy and
 - (b) the Goods, Works, Nonconsulting, and Consulting Services to be procured
 - (i) are specified to a satisfactory quality, are compatible with the other elements of the project, and are consistent with the project objectives,
 - (ii) will be delivered or completed in a timely manner, and
 - (iii) are priced to not adversely affect the economic and financial viability of the project.

A. Roles and Responsibilities

3.1 The governance of procurement in ADB-financed projects shall be managed through clear and transparent lines of accountability and well-defined roles and responsibilities of each party.

Borrower

3.2 The Borrower is responsible and accountable for carrying out procurement activities financed by ADB in accordance with the Procurement Policy and Procurement Directive. This includes developing the procurement strategy and Procurement Plan, initiating, receiving, and evaluating Bids, as well as awarding and managing contracts, which are legally binding agreements between the Borrower and the provider. ADB is not a party to these contracts and assumes no contractual obligations therein.

ADB

3.3 To ensure that ADB funds are used only for the purpose for which the financing was provided, ADB will monitor and provide oversight of the procurement processes, under a risk-based approach.

3.4 ADB may, at its discretion and where deemed necessary, provide implementation support to the Borrower for the execution of the procurement activities. This support shall not be construed as participation in, assumption of, or involvement in procurement decision-making, whether in whole or in part, which shall remain solely the responsibility of the Borrower.

Providers of Goods, Works, Nonconsulting, and Consulting Services

3.5 The effective participation and performance of high-quality providers of Goods, Works, Nonconsulting, and Consulting Services is critical to achieving VfM throughout the procurement process. Providers participating in procurement under ADB-financed projects shall be responsible for complying with the requirements specified in the bidding documents and in the subsequent contracts with the Borrower.

B. Procurement Review

3.6 ADB reviews procurement undertaken by the Borrower to confirm that it is carried out in accordance with the requirements of the Financing Agreement. Procurement activities may be subject to Prior Review or Post Review (Sampling), depending on the project and contract-specific procurement risks, as assessed during the Strategic Procurement Planning (SPP) process undertaken by the Borrower and specified in the Procurement Plan.

3.7 Where required, Prior Review shall apply

- (a) in the case of Prequalification, to the draft Prequalification documents and the Prequalification evaluation report;
- (b) to the draft bidding documents; and
- (c) to the technical and financial Bid evaluation report and Borrower's recommendation for award.

The Borrower will obtain ADB's no-objection prior to proceeding beyond each step described in para 3.7(a)–(c) above. After each contract is awarded, ADB shall be furnished with copies of the contract as executed.⁴

3.8 In the case of signed contracts subject to Prior Review, the Borrower shall seek ADB's no-objection before agreeing to

- (a) an extension of the stipulated time for execution of a contract, if such extension has an impact on the planned completion of a project;
- (b) any material modification of the scope of the Goods, Works, Nonconsulting, or Consulting Services, or other significant changes to the terms and conditions of the contract;
- (c) any variation order or contract amendment, including those because of an extension of time, that singly or cumulatively with all previous variation orders or amendments, increases the original contract amount by more than 15%; or
- (d) the proposed termination of a contract.

3.9 In case of Post Review (Sampling), the Borrower shall

- (a) approve contract awards, and ADB will review only a sample of contracts and
- (b) provide all required documentation to ADB upon request.

3.10 If ADB determines that procurement was not conducted in accordance with the agreed procedures or that the Borrower's actions amounted to noncompliance, ADB may take appropriate action consistent with paras 3.21–3.22 of this Procurement Directive.

3.11 The Borrower shall retain all documentation related to the procurement process and contract implementation for at least one year after the project closing date.

⁴ Any proposed changes that differ substantially from the original draft as reviewed by ADB shall be submitted to ADB for prior no-objection.

C. Eligibility

3.12 Unless ADB's Board of Directors determines otherwise

- (a) loans or grants from Special Funds resources can be used only for procurement of Goods, Works, Nonconsulting, and Consulting Services produced in, and supplied from, ADB members that have contributed to such resources, or from developing member countries and
- (b) loans or grants from ADB's ordinary capital resources or ADB-administered funds can be used only for procurement of Goods, Works, Nonconsulting, and Consulting Services produced in and supplied from ADB Members.

3.13 To foster competition, ADB permits bidders from all eligible ADB members to offer Goods, Works, Nonconsulting, and Consulting Services on ADB-financed projects. Any conditions for participation shall be limited to those that are essential to ensure that a bidder has the capability to fulfill the contract.

3.14 For a contract to be financed in whole or in part by ADB, and subject to the conditions described under paras 3.12–3.18 of this Procurement Directive, ADB does not permit a Borrower to deny or disqualify the participation of a bidder for reasons unrelated to its capability and resources to successfully fulfill the contract. Borrowers should carry out due diligence on the technical and financial qualifications of bidders to confirm their capabilities to fulfill a specific contract.

3.15 Qualification requirements must be nonrestrictive and limited to criteria that demonstrate a bidder possesses the professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, relevant general and specific experience, and capacity to fulfill the contract. Bidders may be requested to provide supporting evidence, as specified in the bidding documents.

3.16 As exceptions to the foregoing:

- (a) Firms and individuals may be excluded if, by an act of compliance with a decision of the United Nations (UN) Security Council taken under Chapter VII of the Charter of the UN, the Borrower's country prohibits any import of Goods from, or payments to, a particular country, person, or entity in respect of Goods, Works, Nonconsulting, or Consulting Services originating in that country.
- (b) Government-owned enterprises from the Borrower's country may participate as a bidder only if ADB expressly agrees.
- (c) Without limitation to (b), when the Nonconsulting or Consulting Services of government-owned universities or research centers in the Borrower's country are of unique and exceptional nature, and their participation is critical to project implementation, ADB may agree to their engagement on a case-by-case basis. Staff from such universities or research centers may be contracted individually under ADB financing on the same basis.

- (d) Government officials and civil servants in the Borrower's country may only be hired under consulting contracts, either as individuals or as members of a team of a consulting firm, if
 - (i) they are not being hired by the agency they were working for immediately before the proposed assignment and
 - (ii) their employment would not create a conflict of interest.
- (e) A firm or individual debarred or suspended by ADB in accordance with ADB's Anticorruption Policy and Investigation and Enforcement Framework shall be ineligible to participate in an ADB-related activity.⁵

3.17 For the purpose of para 3.16(e) of this Procurement Directive, the Borrower shall confirm a firm or individual's eligibility by checking the complete ADB Debarment and Suspension Register at various stages of the procurement process, including during Bid evaluation, prior to contract award, and during the processing of contract variations, extensions or modifications, and withdrawal applications.⁶

D. Integrity

3.18 Borrowers and any other party engaged in ADB-financed activities shall not engage in integrity violations and shall always act in accordance with the highest standard of ethics during any procurement process subject to the Procurement Policy. Any use of funds, resources, assets, and authority by such parties shall be in accordance with ADB's Anticorruption Policy and Investigation and Enforcement Framework, and relevant rules and procedures for their implementation.

E. Conflict of Interest

3.19 ADB considers a conflict of interest as a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations. A conflict of interest may not always constitute a violation of ADB's Anticorruption Policy and Investigation and Enforcement Framework, if appropriately addressed or mitigated.

- (a) ADB requires bidders to disclose all conflicts of interest during the Bid submission. ADB and the Borrower will take appropriate actions to manage such conflicts of interest or may reject a proposal for award if it cannot be appropriately managed.

⁵ ADB. 1998. ADB Anticorruption Policy. <https://www.adb.org/documents/anticorruption-policy>; ADB. 2024. ADB's Investigation and Enforcement Framework. Manila: ADB. <https://www.adb.org/documents/investigation-enforcement-framework>.

⁶ ADB. ADB Complete Debarment and Suspension Register. <https://sanctions.adb.org/>.

(b) ADB requires that bidders involved in the procurement process for an ADB-financed contract to

- (i) have no conflict of interest regarding the procurement concerned;
- (ii) remain professional, objective, and impartial; and
- (iii) always act with professional integrity without any consideration of future work, as well as avoid conflicts with other assignments.

F. Unfair Competitive Advantage

3.20 Bidders competing for a contract must not derive any unfair competitive advantage from having provided Goods, Works, Nonconsulting, or Consulting Services related to the contract. Accordingly, the Borrower shall ensure that any information that could result in an unfair competitive advantage is made equally accessible to all prospective bidders.

G. Noncompliance

3.21 Noncompliance refers to instances when the Borrower or other parties involved in the procurement process fail to comply with the applicable procurement requirements, including the provisions of the Procurement Policy and Procurement Directive.

3.22 In such cases, ADB may, in addition to exercising the contractual remedies set out in the Financing Agreement, take actions consistent with its implementation support, monitoring, and fiduciary role.

H. Procurement-Related Complaints

3.23 For procurement-related Complaints, ADB will consider any remedial or other action proposed by the Borrower to address the alleged impropriety or challenged action identified in the Complaint. Except for acknowledging receipt of a Complaint, ADB generally does not engage in direct communication with any complainant until after publication of contract award. The Borrower should undertake a timely and considered review of the substance of any Complaint and ensure that all outstanding issues identified in a Complaint are resolved to ADB's satisfaction in a timely manner.

3.24 Any Complaints alleging issues relating to fraud, corruption, and/or any other integrity violations under ADB's Anticorruption Policy and Investigation and Enforcement Framework shall be immediately referred to ADB's Office of Anticorruption and Integrity.

3.25 Procurement-related Complaints shall be handled with objectivity, transparency, and fairness, and resolved within a reasonable timeframe. **In a bidding process subject to ADB's Prior Review, the following shall apply to Complaints received from an Interested Party:**

(a) **Complaints received before the Bid submission deadline.**
The Borrower shall promptly acknowledge receipt, share the Complaint, provide a draft response and all relevant documents with ADB and, upon ADB's no-objection, respond to the complainant

in a timely manner. If the Borrower's review of the Complaint necessitates a change to the previously issued bidding documents, the Borrower shall issue a Bid addendum and, if necessary, extend the Bid submission deadline.

(b) **Complaints received after the Bid submission deadline but before the notification to award a contract.⁷**

The Borrower shall promptly acknowledge receipt of the Complaint and provide a draft response and all relevant documents to ADB and, upon ADB's no-objection, respond to the complainant in a timely manner, while safeguarding the confidentiality of the Bid evaluation process consistent with para 6.48 of this Procurement Directive. If the Borrower's review of the Complaint changes the results of the earlier phase of the procurement process, the Borrower shall promptly transmit a revised notification of evaluation results to all relevant parties.

(c) **Complaints received after notification of intention to award a contract (where a Standstill Period applies).**

The Borrower shall promptly acknowledge receipt of the Complaint and provide a draft response and all relevant documents to ADB and, upon ADB's no-objection, respond to the complainant within the Standstill Period. If the Borrower's review of the Complaint changes the Borrower's recommendation for contract award, the Borrower shall promptly transmit a revised notification of intention to award a contract to all previously notified bidders.

3.26 Where the bidding process is subject to Post Review (Sampling), the Borrower will take actions it considers appropriate in the circumstances to address procurement-related Complaints and will promptly notify ADB of the Complaints received. Depending on the nature, value, extent, and frequency of occurrence of Complaints relating to ADB-financed transactions that are subject to Post Review (Sampling), ADB may take any actions to address instances of noncompliance that are consistent with the terms and conditions of the Financing Agreement.

⁷ Or the notification of intention to award a contract where a Standstill Period applies.

Procurement Strategy and Procurement Plan

A. Procurement Strategy

- 4.1 For each ADB-financed project, the Borrower shall develop an SPP report that will document the procurement strategy.⁸ The SPP report shall describe how the procurement activities will support the Borrower's development objectives and deliver VfM.
- 4.2 The scope and level of detail in the SPP report shall be proportionate to the risk, value, and complexity of the project's procurement activities. It shall outline the Borrower's (i) procurement objectives; (ii) proposed evaluation approach and methodology; (iii) market analysis; (iv) risk-management approach; and (v) where merit point criteria (MPC) are to be used, the specific non-price/qualitative criteria and proposed prioritization and weightings (such as methodology, sustainability, and innovation).
- 4.3 For Open Competitive Bidding (OCB) contracts advertised internationally, the Borrower shall conduct early market engagement on the proposed procurement. This engagement aims to provide a better understanding of the market, refine the Borrower's requirements, identify potential risks and opportunities, and inform the procurement strategy. The nature and extent of this engagement shall be proportional to the procurement type, value, and complexity of the contract and shall inform the procurement strategy.

B. Procurement Plan

- 4.4 The Procurement Plan is the key output from the SPP process. It normally covers 18 months of project implementation and shall be updated annually or as needed throughout the project upon agreement between ADB and the Borrower.
- 4.5 ADB reviews the SPP report and approves the Procurement Plan before the completion of loan negotiations. The approved Procurement Plan forms part of the project documentation and is legally binding on the Borrower pursuant to the terms of the Financing Agreement. Updates to the Procurement Plan shall be submitted by the Borrower to ADB for prior review and approval.
- 4.6 Unless approved otherwise by ADB, the Procurement Plan, including its updates, shall include the following:
 - (a) the package title and reference number;
 - (b) the selected procurement method;
 - (c) the evaluation approach and methodology, including MPC with proposed weighting of the technical and financial aspects;
 - (d) the schedule for advertising the activity;

⁸ SPP reports are not required for results-based and policy-based lending, sector development programs without an investment component, or financial intermediary loans where the Borrower does not undertake any procurement.

- (e) the cost estimates;
- (f) the type of bidding documents that will apply;
- (g) ADB's review requirements; and
- (h) any other relevant procurement information.

4.7 To provide early information to prospective bidders, ADB publicly discloses the initial Procurement Plan (and any subsequent updates) indicating the general scope and value of procurement for the succeeding year.



Procurement Methods and Arrangements

5.1 This section outlines approved procurement methods and types of procurement arrangements. Depending on the context, ADB may allow procurement methods or arrangements other than those explicitly identified in this Procurement Directive. The project documents shall detail the justification for and the approach to implementing such methods or arrangements.

A. Procurement Methods

Open Competitive Bidding

5.2 OCB is the preferred procurement method for ADB-financed contracts.⁹ The objective of OCB is to achieve VfM by (i) seeking Bids from qualified bidders that meet the quality and technical requirements of the Borrower; (ii) advertising a Borrower's requirements to all eligible prospective bidders in a timely manner; and (iii) ensuring equal opportunity for all eligible bidders to participate.

5.3 The key steps in the OCB method follow:

- (a) determination of the type and size of contracts based on the circumstances and consideration of the various elements of Goods, Works, Nonconsulting, and Consulting Services required;
- (b) identification of the technical requirements or terms of reference and the definition of the quality and performance levels to be achieved;
- (c) application of appropriate bidder qualification criteria;
- (d) choice of procurement and advertisement method, including any specific procedural requirements (such as one-stage, two-stage, or two-envelope bidding);
- (e) preparation of bidding documents and publication of procurement notices;
- (f) selection of the most appropriate evaluation criteria depending on the quality and cost factors to be applied (for OCB contracts advertised internationally, MPC applies);
- (g) notification of Bid submission and Bid opening procedures;
- (h) contract award procedures, including debriefing; and
- (i) contract management.

⁹ The term *Selection Method* is used for Consulting Services.

5.4 OCB with international advertisement is appropriate when participation by foreign firms will increase competition and help achieve VfM. OCB with national advertisement may be used when the procurement is unlikely to attract international competition noting that, when used, foreign firms may participate on the same terms and conditions as national firms. The decision on advertising nationally or internationally shall be based on an assessment of the supply market, procurement risk, complexity, and contract value, and agreed with ADB.¹⁰

Limited Competitive Bidding

5.5 Limited Competitive Bidding (LCB) is competitive bidding by direct invitation without open advertisement. It may be an appropriate method of procurement for Goods, Works, Nonconsulting, or Consulting Services where

- (a) the number of prospective bidders is limited;
- (b) the amount of the contract is too small to attract sufficient bidders through OCB; or
- (c) other exceptional reasons that may justify not using OCB.

5.6 Under LCB, Borrowers shall seek Bids from a defined list of prospective bidders to help ensure competitive prices. The list generally includes all prospective bidders when only a limited number have been identified. Aside from advertisement, OCB procedures shall apply, including the notification and publication of the award of contract.

Request for Quotations

5.7 Request for Quotations (RFQ) is a procurement method based on comparing price quotations obtained from several suppliers, service providers, or contractors. It is an appropriate method for procuring readily available Goods, standard-specification commodities, Nonconsulting Services, or simple Works, of small value.¹¹

Electronic Reverse Auction

5.8 An electronic reverse auction is an application of an RFQ procedure undertaken as a scheduled online event in which prequalified bidders compete against each other through the presentation of new prices, revised downward. It is used for procurement of standardized products or services when the technical specifications or requirements can be established precisely.

Framework Agreement

5.9 A framework agreement is an agreement between the Borrower and one or more contractors, suppliers, or service providers. The purpose of the agreement is to establish the terms governing contracts (call-offs) to be awarded during the term of the agreement and is suitable where there are recurring requirements for Goods, Works, Nonconsulting, or Consulting Services.

¹⁰ Refer to Technical Instruction on Borrower-Administered Procurement, ADB.

¹¹ The threshold defining small value shall be as stated in the SPP report for a project.

Competitive Dialogue

5.10 Competitive dialogue is a multi-stage procedure whereby the Borrower can directly interact with prequalified bidders with the aim of developing one or more suitable alternative solutions to meet its requirements. This procedure is designed for particularly complex or innovative procurements.

5.11 Competitive dialogue may be appropriate where:

- (a) several solutions that satisfy the Borrower's requirements may be possible and the detailed technical and commercial arrangements required to support those solutions require discussion and development between the parties and
- (b) because of the nature and complexity of the procurement, the Borrower is not able to
 - (i) define the technical or performance specifications and scope to satisfy its requirements and/or
 - (ii) specify the legal and/or financial arrangements of the procurement.

5.12 When using competitive dialogue, the Borrower shall implement any measures required by ADB to ensure the transparency, accountability, and integrity of the procurement process. Unless approved otherwise by ADB, this will include the appointment of an independent assurance provider acceptable to ADB who will oversee the procurement process.

Force Account

5.13 Force account entails construction using the Borrower's own personnel and equipment and may be the only practical method for constructing certain kinds of Works.¹² The use of force account may be justified where

- (a) the quantities of work involved cannot be defined in advance;
- (b) qualified construction firms are unlikely to Bid at reasonable prices because the Works are small and scattered or in remote locations;
- (c) the Works are required to be carried out without disrupting ongoing operations;
- (d) the risks of unavoidable work interruption are better borne by the Borrower than by a contractor; or
- (e) a response to an emergency situation is required.

Selection of Consultants

5.14 For Consulting Services, Borrowers may use the following approved selection methods:

- (a) Quality and Cost-Based Selection (QCBS)—may be used when the scope of work is well defined, the terms of reference are clear, and the Borrower and consultants can reasonably estimate

¹² Any construction unit that is majority-owned by the government, and therefore deemed dependent, shall be considered a force account unit. Force account is otherwise known as direct labor, departmental forces, or direct work.

personnel time and other inputs. The financial weighting is set based on the assignment's complexity, impact, and the relative importance of quality. The final score combines weighted technical and financial scores to rank Proposals and the firm with the highest score is invited to negotiate a contract.

- (b) Quality-Based Selection (QBS)—may be applied to complex or highly specialized assignments with unclear terms of reference, significant project impact, or varied execution methods that make financial comparison difficult. Only technical proposals are submitted and evaluated. The highest-ranked firm is then invited to submit a detailed financial Proposal and negotiate a contract.
- (c) Consultant's Qualifications Selection (CQS)—may be suitable when highly specialized expertise is needed, typically for short-term assignments where few firms are qualified, time is critical, and competitive selection processes are not justified. The Borrower selects the firm with the most relevant qualifications and experience based on responses to a request for expressions of interest. The firm selected is then invited to submit a combined technical-financial Proposal and negotiate a contract.
- (d) Fixed Budget Selection (FBS)—may be used when the terms of reference are clearly defined, inputs can be accurately estimated, and the budget is fixed and must not be exceeded. Firms submit separate technical and financial Proposals within the set budget. Technical Proposals are evaluated first; only those meeting the minimum quality threshold proceed. Financial Proposals are then opened publicly. Proposals exceeding the budget are rejected, and the firm with the highest-ranked technical Proposal is invited to negotiate a contract.
- (e) Least-Cost Selection (LCS)—may be appropriate for small, routine assignments with well-established standards. Firms submit separate technical and financial Proposals. Technical Proposals are evaluated first against a minimum quality threshold. Financial Proposals of qualifying firms are then opened publicly, and the firm with the lowest price is invited to negotiate a contract.

Selection of Individual Consultants

5.15 For certain assignments, recruiting individual consultants may be more appropriate and cost-effective than firms. The Borrower may recruit individual consultants in their individual capacity or through an organization, such as a consulting firm, an academic institution, a government, or an international agency. The evaluation of individual experts shall be based on their qualifications and experience.

Direct Contracting

5.16 Direct contracting is contracting without competition. ADB may approve this method under special circumstances, such as the following:

- (a) Additional items are required under an existing contract that was awarded competitively. The repeat order will usually occur within 18 months of the original order, with the additional quantities not normally exceeding 30% of the original quantities, and the price shall be comparable with the original contract.
- (b) Standardization of equipment or spare parts compatible with existing equipment may justify additional purchases from the original supplier. To justify such purchases, 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 ADB.

- (c) The required Goods are proprietary and obtainable only from one source or, for Consulting Services, when only one firm is qualified or has experience of exceptional worth for the assignment.
- (d) The contractor responsible for the process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee.
- (e) Where Works or Nonconsulting Services are to be contracted and are a natural extension of an earlier or ongoing contract that was awarded competitively, and it can be shown that the engagement of the same contractor will be more economical and will ensure compatibility with results in terms of quality of work. If the initial assignment was not awarded on a competitive basis, or if the downstream assignment is substantially larger in value, a competitive process acceptable to ADB will normally be followed.
- (f) For Consulting Services tasks that represent a natural continuation of previous work carried out by a firm and only where continuity of downstream work is essential.
- (g) Where ADB has agreed that the Borrower may directly contract entities within the UN System, where justified for reasons such as situations where the UN entity's expertise is critical, where Borrower capacity to conduct procurement is limited and cannot be rectified sufficiently through advisory support, or where their engagement demonstrably offers increased VfM as compared to the likely result of competitive procurement.
- (h) For procurement of low value and risk, as agreed in the Procurement Plan.
- (i) In exceptional cases, such as in response to emergency or fragile and conflict-affected situations (FCAS).

Community Participation in Procurement

5.17 Where, to achieve project sustainability or specific social objectives of the project, it is desirable under selected project components for local communities to participate in the delivery of services, the procurement and contracting procedures shall be suitably adapted to reflect these considerations and be acceptable to ADB.

B. Particular Types of Procurement Arrangements

Alternative Procurement Arrangements

5.18 At the Borrower's request, ADB may agree to:

- (a) apply the procurement rules and procedures of another multilateral or bilateral agency or organization involved in the project and may agree to such a party taking a leading role in providing implementation support and monitoring project procurement activities or

- (b) rely on the procurement rules and procedures applied by an agency or entity of the Borrower accredited by ADB, provided that
 - (i) such arrangements are compatible with the value, risk, or complexity of the procurement;
 - (ii) such arrangements are consistent with ADB's Core Procurement Principles;
 - (iii) ADB's member eligibility restrictions, set out in paras 3.12–3.17 of this Procurement Directive, continue to apply unless waived by ADB's Board of Directors; and
 - (iv) ADB's Anticorruption Policy and Investigation and Enforcement Framework (both as amended from time to time) and contractual remedies in applicable Financing Agreements with the Borrower continue to apply.

5.19 ADB must also be satisfied with the assessed fiduciary risks and the established mitigation measures.

Urgent Need of Assistance and Capacity Constraints

- 5.20 ADB may accept alternative procurement methods, procurement arrangements, and market approaches, or other flexible procurement measures and procedures, provided they are consistent with the Core Procurement Principles, in situations where ADB deems the Borrower to
 - (a) be in urgent need of assistance because of natural or human-made disaster or conflict (emergency situations) or
 - (b) have capacity constraints because of its status as FCAS or specific vulnerabilities, including those affecting small island developing states (SIDS).

Procurement Agents

- 5.21 Borrowers that lack the necessary organizational structure, resources, and experience, may (or may be required by ADB to) employ, as their agent, a firm specializing in undertaking procurement. The agent shall follow all the procurement procedures detailed in the Financing Agreement. Management contractors may be similarly employed to contract for miscellaneous Works involving reconstruction, repairs, rehabilitation, and new construction in emergency situations, or where large numbers of small contracts are involved.

Public–Private Partnerships

- 5.22 Where ADB provides financing support to a Borrower in respect of a Public–Private Partnership (PPP), the procurement procedures to select the contractor shall comply with ADB's Core Procurement Principles, and the criteria in paras 3.12 and 3.18 of this Procurement Directive.
- 5.23 In exceptional circumstances, ADB may agree to finance a PPP arising from an unsolicited Proposal if the process to assess and determine the best VfM approach to awarding the contract is clearly defined by the Borrower and agreed to by ADB.

Procurement of High-Level Technology

5.24 The procurement of high-level technology involves proven or advanced new technology that improves the quality of the solutions delivered. For particularly complex or sophisticated infrastructure, equipment, or services, alternative methods of procurement may be appropriate to provide optimal VfM.

Procurement Under Loans Guaranteed by ADB

5.25 If, subject to a sovereign guarantee, ADB guarantees the repayment of a loan made by another lender, the Goods, Works, Nonconsulting, and Consulting Services financed by such loan shall be procured in accordance with the Core Procurement Principles and paras 2.4, 3.12,¹³ and 3.18 of this Procurement Directive.

Procurement Under Loans to Financial Intermediaries

5.26 For sovereign financial intermediation lending projects, procurement under subprojects may be carried out in accordance with established private sector or commercial practices, provided these are acceptable to ADB and reflect ADB's Core Procurement Principles. Although the use of OCB for subprojects is not required, it is encouraged when the investment amount is high value.

5.27 ADB requires financial intermediaries to monitor and ensure that end-beneficiaries adopt and implement appropriate procurement procedures for subprojects, using suitable monitoring mechanisms. Paras 3.16(a) and 3.16(e) of this Procurement Directive continue to apply to procurement under financial intermediary loans.

¹³ Unless ADB's Board of Directors determines otherwise.

A. General Procurement Provisions

Advance Contracting and Retroactive Financing

- 6.1 The Borrower may want to initiate procurement before the effective date of the Financing Agreement. In such cases, for contracts to be eligible for ADB financing, the procurement procedures, including advertising, must be consistent with the documentation agreed between the Borrower and ADB for the concerned project.
- 6.2 The Borrower undertakes such advance contracting at its own risk. Any concurrence by ADB on the procedures, documentation, or proposal for contract award, does not commit ADB to financing the project.
- 6.3 If a contract is signed, reimbursement by ADB of any expenses incurred by the Borrower under the contract before the effectiveness of the Financing Agreement is referred to as retroactive financing. It is permitted only within the limits specified in the Financing Agreement.

Electronic Procurement Systems

- 6.4 Electronic procurement (e-procurement) systems are recommended for communications with bidders, advertisements, notices and amendments, distribution of procurement documents, submission of Bids or Proposals, evaluation, and disclosure of contract awards. Any e-procurement system used by the Borrower for ADB-financed projects must be accessible to all eligible bidders, be secure, ensure integrity and confidentiality, have sufficient audit trail features, and be approved by ADB.

Sustainable Procurement

- 6.5 Sustainable procurement is a strategic approach that promotes the integration of the pillars of sustainable development, that is, economic, social, environmental, and institutional. Sustainable procurement considerations should be identified during the SPP process.
- 6.6 To support economic growth, and except where ADB approves otherwise in writing, at least half of the contracted labor force employed on internationally advertised Works contracts shall be composed of labor from within the Borrower's territory.¹⁴
- 6.7 When using the MPC evaluation method, up to 25% of total technical points may target aspects of a Bid that focus on sustainability considerations. Within this, up to 15% of the technical points may be allocated to other measures that support local job creation and skills development on a contract.

¹⁴ The exact criteria, assessment, and enforcement shall be reflected in the bidding document and contract as appropriate.

Domestic Preference

6.8 ADB may accept the application of provisions that promote or encourage the development of domestic industry through domestic preference schemes if ADB is satisfied that such provisions satisfy its Core Procurement Principles. The proposed approach shall be documented in the SPP report and detailed in the project documents in general, including loan agreement (procurement schedule), Project Administration Manual (PAM), and so on.

Joint Ventures

6.9 Firms participating in ADB-financed contracts may form joint ventures either with domestic firms and/or with foreign firms, subject to all joint-venture partners being jointly and severally liable under the contract. ADB does not accept conditions of bidding requiring mandatory joint ventures or other forms of mandatory association between firms.

Language

6.10 Unless ADB agrees otherwise, bidding and other relevant documents, including advertisements, are to be prepared in English.

Advertising

6.11 OCB with National Advertisement: Bidding opportunities shall be advertised on a website or electronic portal with free national and international access, or in a newspaper of national circulation.

6.12 OCB with International Advertisement: Bidding opportunities shall be published on the ADB website. In addition, they shall also be published on a website or electronic portal with free national and international access, or in a newspaper of national circulation.

B. Bidding Procedures

Evaluation Criteria

6.13 Evaluation criteria help to ensure that a contract is awarded to an eligible bidder that has the experience and the professional, financial, and technical capacity to successfully perform the contract. Therefore, the evaluation criteria and the methodology for evaluating Bids and selecting a bidder should be aligned with the desired characteristics or qualifications of the optimal bidder, the desired outcomes of the contract, and the requirements stated in this Procurement Directive to enable the Borrower to achieve VfM.

6.14 Evaluation criteria shall be:

- proportionate to the type, nature, market conditions, and complexity;
- included in the bidding document or request for proposals (RFP) together with a full explanation of the specific way they are to be applied;
- changed only through amendment to the bidding documents; and
- applied consistently to all Bids or Proposals submitted.

6.15 MPC assesses non-price and price attributes of Bids to determine the substantially responsive Bid that offers VfM. Generally, MPC is used to assess relative merits of a technical Bid that meets the qualification requirements to perform the contract, rather than the bidder's historical performance. However, there may be cases where the bidder's previous experience and performance may be relevant to the quality of Works to be delivered, in which case such elements can be evaluated through MPC.

6.16 As with other evaluation criteria, MPC and the method by which Bids will be evaluated must be clearly stated in the bidding document. These criteria may be used to assess the following features, among others:

- (a) the degree to which the performance, capacity, innovative features, or functionality features offered by bidders meet or exceed the levels specified in the performance and/or functional requirements and/or influence the life-cycle cost defined in the employer's requirements;
- (b) quality of Bids in terms of methodology or method statement, work plan, key personnel, access to key equipment, site organization, safety, quality assurance, mobilization schedule, implementation schedule, and any other specific activities as indicated in the employer's requirements; and
- (c) ability of bidders to meet and exceed any sustainable procurement requirements specified in the employer's requirements.

However, the use of criteria that only consider the origin of Goods, equipment, or materials, or the nationality of a bidders' joint-venture partners, subcontractors, or suppliers shall not be permitted.

6.17 MPC shall be used for any OCB for Goods,¹⁵ Works, and Nonconsulting Services through international advertisement. The Borrower shall specify the MPC weightings and the methodology for their application in the bidding documents. The minimum technical weightings for each contract, based on procurement risk and contract value,¹⁶ shall be as follows:

- (a) 50% for high/substantial procurement risk and high value;
- (b) 60% for high/substantial procurement risk and low value;
- (c) 10% for moderate/low procurement risk and high value; and
- (d) 20% for moderate/low procurement risk and low value.

Prequalification of Bidders

6.18 Prequalification helps to ensure that only bidders with adequate capacity and resources participate in procurement. It may be used for all procurement, although the terminology may change depending on the nature of the procurement. For Goods, Works, and Nonconsulting Services, this process is termed "prequalification"; for Consulting Services, it is referred to as "shortlisting." However, the process and significance are identical.

¹⁵ Excluding pharmaceuticals, vaccines, commodities, and low-value off-the-shelf goods.

¹⁶ Contracts estimated to cost at or above US\$10 million are deemed high value for purposes of the weightings.

6.19 Prequalification is generally recommended for

- Consulting Services;
- large or complex Works; or
- in circumstances where high Bid preparation costs may deter competition.

6.20 Unless otherwise agreed in the SPP report, the Borrower shall limit the number of firms to be prequalified based on qualification criteria clearly stated in the prequalification documents, provided such limitation does not impede competition.

6.21 Prequalification requirements and the maximum number of applicants to be prequalified must be clearly defined, disclosed transparently, and published through channels acceptable to ADB.

Postqualification of Bidders

6.22 If bidders have not been prequalified, the Borrower shall determine whether the proposed bidders have the qualifications, capability, and resources to effectively carry out the contract as offered in the Bid. The criteria to be satisfied shall be set out in the bidding documents. If a bidder does not fulfill the criteria, their Bid shall be rejected.

Bidding Procedures

6.23 Single Stage—One-Envelope: Bidders submit Bids in one envelope containing both the technical and price Bids, which are opened in public at the date and time specified in the bidding document. The Borrower shall evaluate the Bids for substantial responsiveness and compliance with eligibility and qualification requirements.

6.24 Single Stage—Two-Envelope: Bidders submit simultaneously two separate sealed envelopes, one with the technical Bid and the other with the price Bid. The technical Bids are opened at the date and time advised in the bidding document, while price Bids remain sealed and in the custody of the Borrower. The Borrower shall evaluate the technical Bids for substantial responsiveness and compliance with eligibility and qualification requirements. Price Bids of technically responsive bidders shall then be opened in public at a date and time notified by the Borrower.

6.25 Two-Stage—One-Envelope: In the first stage, bidders submit only a technical Bid in a single envelope, without any price information. The technical Bids are opened and evaluated by the Borrower at the date and time specified in the bidding documents. The Borrower may discuss and clarify technical aspects with bidders to align Bids with the final technical requirements. Bidders unable or unwilling to revise their Bids accordingly may be rejected.

6.26 In the second stage, bidders with responsive technical Bids are invited to submit a revised Bid, including both the updated technical Bid (if applicable) and the price Bid. These are then opened together in public and evaluated.

6.27 Two-Stage—Two-Envelope: In the first stage, bidders submit both a technical Bid and a price Bid in separate sealed envelopes. At the date and time specified, only the technical Bids are opened; the price Bids remain sealed and are retained by the Borrower. The technical Bids are evaluated, and if required, clarifications or revisions are requested to align with the final technical standards. Bidders unable or unwilling to make the required changes may be rejected.

6.28 In the second stage, bidders are invited to submit revised technical Bids and supplementary price Bids, reflecting only the cost implications of technical changes. All price-related documents (original and supplementary) and revised technical Bids are then opened in public and evaluated.

C. Bidding Requirements

Bidding Documents

6.29 It is essential that bidding documents provide all the information necessary for bidders to prepare responsive Bids, although the detail and complexity of these documents will vary depending on type of procurement and the value of the contract.

6.30 The term standard bidding document (SBD) is used to refer to standardized procurement documents issued by ADB. For all procurement subject to international advertising, Borrowers shall use the appropriate SBDs. Where no relevant SBD has been issued by ADB, and subject to ADB approval, the Borrower may use other internationally recognized bidding documents, provided they are amended to reflect the requirements of this Procurement Directive. For all procurement subject to national advertising, the Borrower may use the applicable SBDs, or other national bidding documents, provided they are acceptable to ADB.¹⁷

6.31 To ensure fair treatment, all prospective bidders must be provided with the same information, communicated consistently and in a timely manner and, where relevant, be granted reasonable access to project sites. Any additional information, clarification, correction of errors, or modifications of bidding documents will be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of Bids. If necessary, and with ADB's approval, the deadline may be extended.

Alternative Bids

6.32 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 will be evaluated.

Specifying Quality

6.33 The technical and quality requirements of the Borrower will be articulated in the bidding documents, based on a clear and comprehensive statement of needs. The requirements will detail the nature and scope of the Goods, Works, or Nonconsulting Services that will be required to satisfy those needs and set out any quality or other standards to be met.

6.34 The Borrower's requirements will ordinarily be formulated in terms of performance or functional standards or by reference to technical specifications and industry norms. Where appropriate, the bidding documents will define any tests, standards, and methods that will be employed to judge the conformity of Goods as delivered, or Works, or Nonconsulting Services as performed.

6.35 In the case of Consulting Services, requirements will be established in the terms of reference that define clearly the objectives, goals, and scope of the assignment together with either the expected inputs to be provided or the required outputs to be delivered.

¹⁷ In the case of Consulting Services, a bidding document shall be referred to as an RFP.

6.36 To promote the broadest possible competition while ensuring the critical performance or other requirements for the Goods, Works, or Nonconsulting Services under procurement, standards and technical specifications quoted in bidding documents should, as far as possible, be specified by reference to internationally accepted standards, such as those issued by the International Organization for Standardization. Where such international standards are unavailable, national standards may be specified. In all cases, equivalent standards are acceptable.

Incoterms

6.37 Incoterms shall be used for procurement of Goods through international advertising. The bidding documents shall specify the applicable version of the Incoterms that shall be used.

Use of Brand Names

6.38 To avoid discrimination, references to brand names, catalog numbers, or similar classifications are not permitted. However, 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” need to be added after such reference.

6.39 The specification must permit the acceptance of offers for Goods that have similar characteristics and provide performance substantially equivalent to those specified.

Currency Provisions

6.40 Bidding documents shall state the currency or currencies in which bidders are to state their prices, the procedure for converting prices expressed in different currencies into a single currency for the purpose of comparing Bids, and the currencies in which the contract price will be paid.

Validity of Bids and Bid Security

6.41 Bidders are required to submit Bids valid for a period specified in the bidding documents. The period should be sufficient to enable the Borrower to complete the comparison and evaluation of Bids, review the recommendation of award with ADB (if Prior Review is required), and obtain all the necessary approvals and/or no-objections so that the contract can be awarded.

6.42 In the case of contracts for Goods, Works, and Nonconsulting Services, Borrowers have the option of requiring bidders to submit a Bid security or a Bid-securing declaration. When a Bid security is used, it shall be released to unsuccessful bidders once the contract has been signed with the winning bidder.

6.43 Borrowers shall complete the evaluation of Bids and award of contract within the initial period of Bid validity. An extension of Bid validity, if adequately justified, shall be requested in writing from all bidders before the expiration date. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary approvals and/or no-objections, and award the contract.

6.44 Whenever an extension of the Bid validity period is requested, bidders shall not be requested or be permitted to change the price or other conditions of their Bid. Bidders shall have the right to refuse to grant such an extension without forfeiting their Bid security or having their Bid-securing declaration executed. Those bidders willing to extend the validity of their Bid shall be required to provide a suitable unconditional extension of the Bid security or Bid-securing declaration.

D. Bid Submission and Opening

Bid Opening Procedures

6.45 The Borrower shall open all Bids at the time and place stipulated in the bidding document. The time for the Bid opening shall be the same as for the receipt of Bids or promptly thereafter. Bid opening procedures depend on whether the procurement requires the submission of one or two envelopes in one or two stages.

6.46 Bids shall be opened in public, and bidders or their representatives shall be allowed to be present. The name of the bidder and total amount of each Bid, and of any alternative Bids if they have been requested or permitted, shall be read aloud and recorded, together with any other details required by the bidding documents. A copy of this record shall be promptly sent to ADB and to all bidders who submitted Bids in time. When electronic Bid submission is used, an online Bid opening procedure acceptable to ADB may be employed.

6.47 Bids received after date and time stipulated in the bidding documents shall not be opened or considered further.

Confidentiality

6.48 After the public opening of Bids, information relating to the examination, clarification, and evaluation of Bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the Borrower notifies the outcome of the evaluation of Bids in accordance with the procedures contained in the issued bidding documents. In no case shall any bidder's cost breakdown, trade secrets, manufacturing processes and techniques, or other confidential business or financial information be disclosed to any other bidder.

Clarifications or Alterations of Bids

6.49 Bidders are not permitted to alter their Bids after the deadline for Bid submission. The Borrower may only ask bidders for clarifications strictly needed to evaluate their Bids in accordance with the terms of the issued bidding documents but shall not ask or permit bidders to change the substance or price of their Bids.

6.50 Requests for clarification and the bidders' responses shall be made in writing or through a secure electronic system.

E. Bid Evaluation and Award

Examination of Bids

6.51 The Borrower shall ascertain that the bidders meet the eligibility requirements and that the Bids are

- (a) properly signed;
- (b) accompanied by the required Bid security or Bid-securing declaration, if any;
- (c) substantially responsive to the requirements stated in bidding documents; and
- (d) otherwise generally in order.

6.52 If a Bid is not substantially responsive (i.e., it contains material omissions or deviations from or reservations to the terms, conditions, and specifications in the bidding documents), it shall not be considered further. The bidder shall not be permitted to correct or withdraw material omissions, deviations, or reservations once Bids have been opened.

Abnormally Low Bids

6.53 Any procedure under which Bids above or below a predetermined assessment of Bid values are automatically disqualified is not acceptable. However, an abnormally low Bid may be excluded where the Bid price appears so unreasonably low that it raises concerns with the Borrower in respect of the bidder's ability to perform the contract successfully.

6.54 When a potential abnormally low Bid is identified, the Borrower shall seek written explanations of the proposed price or costs from the bidder, including a detailed analysis of its Bid prices by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities.

6.55 After examining the explanation given and the detailed price analyses presented by the bidder, the Borrower may

- (a) accept the Bid or
- (b) reject the Bid where the evidence supplied does not satisfactorily account for the low price or costs proposed.

Most Advantageous Bid

6.56 The Borrower shall award the contract to the bidder offering the most advantageous Bid, in accordance with the applicable procurement method.

6.57 When MPC is used for the procurement of Goods, Works, and Nonconsulting Services, the most advantageous Bid is the Bid submitted by the bidder that meets the qualification criteria and whose Bid has been determined to be

- (a) substantially responsive and
- (b) the highest-ranked Bid.

6.58 When MPC is not used for the procurement of Goods, Works, and Nonconsulting Services, the most advantageous Bid is submitted by a bidder who meets the qualification criteria and whose Bid has been determined to be

- (a) substantially responsive and
- (b) the lowest evaluated cost.

6.59 For Consulting Services, the most advantageous Bid is the best evaluated Proposal.

Bid Evaluation Report

6.60 The Borrower shall prepare a detailed report on the evaluation and comparison of Bids in a format acceptable to ADB. The report will set forth the specific reasons on which the recommendation is based for the award of a contract.

Rejection of All Bids

6.61 Rejection of all Bids is justified when Bids are not substantially responsive, or when Bid prices are substantially higher than the existing budget.

6.62 Even when only one Bid is submitted, the bidding process may be considered valid if the Bid was satisfactorily advertised and prices are reasonable in comparison to market values.

6.63 If all Bids are nonresponsive, the Borrower shall review the causes justifying the rejection and consider revising the conditions of the bidding document, design and specifications, scope of the contract, or a combination of these before inviting new Bids. If the rejection is due to most or all of the Bids being nonresponsive, new Bids may be invited from the initially qualified firms, or, with the agreement of ADB, from only those that submitted Bids in the first instance, provided the Borrower has carefully considered and addressed the reasons for the earlier lack of Bid responsiveness and, as appropriate, modified or amended the bidding documents.

6.64 When all Bids have been rejected, rebidding may be called, and the Borrower shall request new Bids, from among others, all who were supplied with bidding documents in the first instance. However, if there have been enough Bids in the initial bidding, the Borrower may consider inviting Bids only from those who have previously submitted Bids.

6.65 Where all Bid prices substantially exceed the cost estimates, the Borrower may, after reviewing the sufficiency of the original budget, instead of calling for new Bids, and after consultation with ADB, negotiate with the bidder offering the most advantageous Bid for a reduction of the Bid price. However, these discussions will not substantially alter the scope of the contract. If no satisfactory contract can be concluded and a rebidding is called, modification of the scope of the contract shall be considered.

6.66 For contracts subject to Prior Review, ADB's no-objection shall be obtained before rejecting all Bids, soliciting new Bids, substantially changing the original budget and/or estimate, or entering negotiations with the bidder offering the most advantageous Bid.

Standstill Period

6.67 To give bidders time to review the results of a procurement process and to assess whether it is appropriate to submit a Complaint, a Standstill Period may apply. Where a Standstill Period applies, the Borrower shall, within the Standstill Period, notify each bidder that submitted a Bid of its intention to award a contract to the successful bidder at the end of the Standstill Period. Details related to the Standstill Period shall be included in the bidding documents and the Borrower may not award a contract during the Standstill Period.

Notification of Intention to Award a Contract

6.68 Where a Standstill Period applies, the Borrower shall, at the commencement of the Standstill Period, notify each bidder that submitted a Bid of its intention to award a contract to the successful bidder at the end of the Standstill Period. The notification shall include

- (a) the package title and reference number;
- (b) for each Bid that is evaluated, the name of each bidder whose Bid was evaluated and
 - (i) the technical and financial scores, when MPC is used, or
 - (ii) the prices read out at Bid opening, and evaluated Bid prices when MPC is not used;
- (c) the name of the winning bidder, the total contract price, and the duration and summary scope of the contract awarded;
- (d) a statement of the reason(s) that the Bid of the unsuccessful bidder to whom the notification addressed was unsuccessful, unless the price or scoring information under (b) of this paragraph already reveals the reason; and
- (e) the date the Standstill Period will end and instructions on how to request a debriefing or submit a Complaint.

Contract Award

6.69 Subject to any Standstill Period provisions that apply, the Borrower shall award the contract, within the period of Bid validity, to the eligible bidder who meets qualification criteria and whose Bid has been determined to be the most advantageous Bid.

6.70 A bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the Bid as originally submitted.

6.71 All successful bidders of internationally advertised contracts will be required to disclose their Beneficial Ownership prior to contract execution.

Debriefing

6.72 In the bidding documents, the Borrower shall specify that any bidder who wishes to ascertain the grounds on which its Bid was not selected should request an explanation from the Borrower. The Borrower shall promptly, in writing and/or in a debriefing meeting, and in any event before the end of the Standstill Period if it applies, provide an explanation of why such Bid was not selected. If the bidder is not satisfied with the explanation provided by the Borrower or if the Borrower fails to provide such debriefing, the bidder may write directly to ADB. The requesting bidder shall bear all the costs of attending a debriefing. In these discussions, only the requesting bidder's Bid shall be discussed and not the Bids of competitors.

Publication of Award of Contract

6.73 The Borrower shall transmit the notice of award to the successful bidder and publish on a website or electronic portal with free national and international access, or in an English language newspaper, a contract award notice that shall include

- (a) the name of the Borrower;
- (b) the package title and reference number;
- (c) for each Bid that is evaluated, the name of each bidder whose Bid was evaluated and
 - (i) the combined technical and financial score, when MPC is used or
 - (ii) the prices read out at Bid opening, and evaluated Bid prices when MPC is not used;
- (d) the name of bidders whose Bids were rejected and the reasons for their rejection; and
- (e) the name of the winning bidder, the total contract price, and the duration and summary scope of the contract awarded.

F. Contracting and Contract Management

Contract Types

6.74 Bidding documents must clearly specify the contract type and key provisions. The choice of contract should be based on suitability for the procurement's purpose and risk profile, to ensure VfM. Common contract types include lump-sum, performance- or output-based, time-based, unit price, or a combination thereof.

6.75 For projects involving similar but separate components of Goods, or Works, Nonconsulting Services, Borrowers may allow firms to submit offers for individual lots or combined packages. All Bids must be submitted by the same deadline and evaluated together to determine VfM.

6.76 ADB may accept or require turnkey contracts covering design, supply, installation, and construction under a single responsibility contract. Alternatively, the Borrower may retain design responsibility and Bid out supply and installation. Design build, management contracts, and similar arrangements are also acceptable when appropriate.

6.77 In the case of Consulting Services, the following contract types may be used:

- (a) Time-based contract: Suitable when the scope, output, or duration of the Consulting Services is uncertain, such as for complex studies, construction supervision, advisory services, and most training, with required inputs stated by the Borrower and payment based on actual inputs provided by the Consultant.

- (b) Lump-sum contract: Suitable when the scope, deliverables, and duration are clearly defined such as for planning and feasibility studies, environmental assessments, and detailed design of standard structures, and where bidders can quote accurate lump-sum fees to provide the services requested, and payment is based on the satisfactory delivery of those services.
- (c) Small assignment contract: These are procurements of minimal value, normally not exceeding \$100,000, with consideration given to the nature and complexity of the activity.

Performance Security

6.78 In the case of contracts for Goods, Works, and Nonconsulting Services, the bidding documents shall set out the requirements in respect of performance security.

Liquidated Damages and Bonus Clauses

6.79 Provisions for liquidated damages or other performance-related provisions may be included in the conditions of contract. Provisions may also be made for a bonus to be paid for good performance and/or early completion, based on the terms and conditions specified in a contract.

Force Majeure

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

Conditions of Contract

6.81 The contract documents shall clearly define the scope of Works to be performed, the Goods to be supplied, the Nonconsulting or Consulting Services to be delivered, the rights and obligations of the Borrower and of the supplier, contractor, or service provider, 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.

6.82 In addition to the general conditions of contract, any special conditions particular to the specific Goods, Works, Nonconsulting, or Consulting Services to be procured shall be included. The conditions of contract shall provide a balanced allocation of risks and liabilities to the parties to the contract.

Price Adjustment

6.83 The bidding documents shall clearly indicate whether price adjustment is allowed in the event of inflation or other changes that occur in major cost components of the contract, such as labor, equipment, and materials, over which the contractor has no control. If allowed, the bidding documents shall provide the method of adjustment formula or formulas to be used.

Transportation and Insurance

6.84 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.

Professional Liability

6.85 Service providers are expected to carry out assignments with due diligence and in accordance with prevailing standards of the relevant profession. If the parties seek to limit this liability by way of contract, they should ensure that:

- (a) there may be no such limitation in case of the service provider's negligence or misconduct;¹⁸
- (b) the service provider's liability to the Borrower may in no case be limited to less than a multiplier of the total value of the contract to be indicated in the bidding document and in the special conditions of the contract (the amount of such limitation will depend on each specific case); and
- (c) any such limitation may deal only with the service provider's liability toward the Borrower and not with the service provider's liability toward third parties.

Applicable Law and Settlement of Disputes

6.86 The conditions of the contract shall include provisions concerning the applicable law and the forum for the settlement of disputes. All contracts for Goods, Works, Nonconsulting, and Consulting Services advertised internationally shall refer to appropriate independent dispute resolution mechanisms such as dispute review boards or adjudicators. For such contracts, international commercial arbitration in a neutral venue shall also be required. ADB shall not be named arbitrator or be asked to name an arbitrator.

Contract Management

6.87 The aim of contract management is to ensure that all parties meet their contractual obligations. The Borrower must actively manage contracts throughout their life to ensure that performance is satisfactory, appropriate stakeholders are informed, and all contract requirements are met.

6.88 For all contracts identified as high/substantial procurement risk and high value, a Contract Management Plan (CMP) acceptable to ADB shall be developed and completed at the time of contract signing. For other contracts a CMP may be developed, if recommended in the SPP report. The CMP will include key performance indicators and milestone events. The Borrower should monitor the performance and progress of contracts in accordance with the CMP and provide timely reports to ADB.

¹⁸ In exceptional cases, ADB may approve application of a limitation of liability to a service provider's negligence or misconduct where justified and upon assessment that the extent of potential liability under the concerned contract is low, taking into account the nature of the Consulting Services provided. However, in no event in such cases may a limitation of liability apply to a service provider's gross negligence or willful misconduct.

About the Asian Development Bank

ADB is a leading multilateral development bank supporting inclusive, resilient, and sustainable growth across Asia and the Pacific. Working with its members and partners to solve complex challenges together, ADB harnesses innovative financial tools and strategic partnerships to transform lives, build quality infrastructure, and safeguard our planet. Founded in 1966, ADB is owned by 69 members—50 from the region.



ASIAN DEVELOPMENT BANK

6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org