

GUIDELINES

SELECTION AND EMPLOYMENT OF

CONSULTANTS

BY

SAMAN BANK

BORROWERS

EXECUTIVE VP CREDIT

PROJECT FINANCE & MANAGEMENT

Sources: world Bank, Islamic development bank

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I. INTRODUCTION

1-Purpose

The purpose of these Guidelines is to define the Bank's policies and procedures for selecting, contracting, and monitoring consultants required for projects that are financed in whole or in part by loans from the SAMAN Bank and executed by the beneficiary.

2- Scope of application

2-1 The consulting services to which these Guidelines apply are of an intellectual and advisory nature.

2-2 For the purpose of these Guidelines, the term consultants includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, institutions, government agencies, nongovernmental organizations (NGOs), and individuals.¹ Bank Borrowers use these organizations as consultants to help in a wide range of activities—such as policy advice; institutional reforms; management; engineering services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation, and implementation of projects to complement Borrowers' capabilities in these areas. These Guidelines do not apply to other types of services in which the physical aspects of the activity predominate (for example, construction of works, manufacture of goods, operation and maintenance of facilities or plant, surveys, exploratory drilling, aerial photography, satellite imagery, and services contracted on the basis of performance of measurable physical output).

2-3 the procedures outlined in these Guidelines apply to all contracts for consulting services financed in whole or in part from Bank loans or grants or trust funds implemented by the beneficiary. In procuring consulting services not financed from such sources, the Borrower may adopt other procedures. In such cases, the Bank shall satisfy itself that

- (a) the procedures to be used will result in the selection of consultants, who have the necessary professional qualifications,
- (b) The selected consultant will carry out the assignment in accordance with the agreed schedule, and

(c) The scope of the services is consistent with the needs of the project.

2-4 The Loan agreement governs the legal relationships between the Borrower and the Bank, and the Guidelines apply to the selection and employment of consultants for the project as provided in the Agreement. The rights and obligations of the Borrower and the consultant are governed by the specific Request for Proposals (RFP) issued by the Borrower and by the contract signed by the Borrower with the consultant, and not by these Guidelines or the Loan Agreement. No party other than the parties to the Loan Agreement shall derive any rights there from or have any claim to loan proceeds.

2-5 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 – borrower under “on lending arrangement “.

3- Definition

3-1- For the purpose of these Guidelines, the term” consultants” includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, institutions, government agencies, nongovernmental organizations (NGOs), and individuals.² Bank Borrowers use these organizations as consultants to help in a wide range of activities—such as policy advice; institutional reforms; management; engineering services; construction supervision; financial services; procurement services; social and environmental studies; and identification, preparation, and implementation of projects to complement Borrowers’ capabilities in these areas.

3-2 “corrupt practice” means the offering, giving, receiving, or soliciting of, directly or indirectly, any thing of value to influence the action of a public official in the selection process or in contract execution;

3-3 “fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of contract;

3-4 “collusive practices” means a scheme or arrangement between two or more consultants, with or without the knowledge of the Borrower, designed to establish prices at artificial, noncompetitive levels;

3-5 “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

3-6 Loan agreement: that’s a legal agreement between borrower and the bank.

3-7 Terms of Reference (TOR)

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

3-8 contact: that’s a legal agreement between borrower and contactors to provide the necessary services to the borrower.

3-9- RFP: A document that identifies the needs of borrower for the project scope of the services.

3-10 small contract: means range of contract less than 000,000 \$.

3-11 Big Contract: means range of contract more than 000,000 \$.

4- Consultant selection bases

4-1 borrower: it means individual or companies that their projects finance by the bank. Assessment and selection of consultants under these guidelines shall be the borrower's responsibility.

4-2 project finance and management office: this office is the subsidiary of the executive VP credit and responsible in Implementation of the project financing cycle in the bank, this office under these guidelines is named bank.

5 General Considerations

5-1 Consultant selection policies

The Borrower is responsible for preparing and implementing the project, and therefore for selecting the consultant, and awarding and subsequently administering the contract. While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, five main considerations guide the Bank's policy on the selection process:

- (A) The need for high-quality services,
- (B) The need for economy and efficiency,
- (C) The need to give all qualified consultants an opportunity to compete in providing the services financed by the Bank,
- (D) The Bank's interest in encouraging the development and use of national consultants in its developing member countries, and
- (E) The need for transparency in the selection process

Conflict of Interest

5-2 Bank policy requires that consultants provide professional, objective, and impartial advice and at all times hold the client's

interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Borrower. Without limitation on the generality of the forgoing, consultants shall not be hired.

5-2-1 Conflict between consulting activities and procurement of goods, works or services (other than consulting services covered by these Guidelines): A firm that has been engaged by the Borrower to provide goods, works, or services (other than consulting services covered by these Guidelines) for a project, and each of its affiliates, shall be disqualified from providing consulting services

5-2-2 related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services (other than consulting services covered by these Guidelines) resulting from or directly related to the firm's consulting services for such preparation or implementation.

5-2-3 Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

5-2-4 Relationship with Borrower's staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with a member of the Borrower's staff (or of the project implementing agency's staff, or of a beneficiary of the loan) who are directly or indirectly involved in any part of: (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or

(iii) supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the contract.

5-3 Unfair Competitive Advantage - Fairness and transparency in the selection process require that consultants or their affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Borrower shall make available to all the short-listed consultants together with the request for proposals all information that would in that respect give a consultant a competitive advantage.

5-4 Eligibility

To foster competition the Bank permits firms and individuals from all countries to offer consulting services for Bank-financed projects. Any conditions for participation shall be limited to those that are essential to ensure the firm's capability to fulfill the contract in question³However,

5-4-1 if as a matter of law or official regulations, the Borrower's country prohibits commercial relations with the consultant's country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the procurement of the consulting services required,

5-4-2 by an act of compliance with a decision of 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.

5-4-3 Government-owned enterprises or institutions in the Borrower's country may participate only if they can establish that they

- (i) are legally and financially autonomous,
- (ii) Operate under commercial law, and
- (iii) Are not dependent agencies of the Borrower or Sub-Borrower?

5-4-4, when the 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, the Bank may agree on the hiring of those institutions on a case-by-case basis. On the same basis, research institutes can be contracted individually under Bank financing.

5-4-5 Government officials and civil servants may only be hired under consulting contracts, either as individuals or as members of a team of a consulting firm, if they (i) are on leave of absence without pay; (ii) are not being hired by the agency they were working for immediately before going on leave; and (iii) their employment would not create conflict of interest.

(e) A firm declared ineligible by the Banking accordance with these Guidelines shall be ineligible to be awarded a Bank-financed contract during such period of time as the Bank shall determine.

5-5 Advance Contracting and Retroactive Financing

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

5-6 Associations between Consultants

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

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

5-7 Misprocurement

The Bank does not finance expenditures for consulting services if the consultants have not been selected or the services have not been contracted in accordance with the agreed provisions of the Loan Agreement and the Procurement Plan⁴ approved by the Bank. In such cases, the Bank will declare misprocurement, and it is the Bank's policy to cancel that portion of the loan allocated to the services that have been misprocured. The Bank may, in addition, exercise other remedies provided for under the Loan Agreement. Even once the contract is awarded after obtaining a "no objection" from the Bank, the Bank may still declare misprocurement if it concludes that the "no objection" was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower or that the terms and conditions of the contract had been modified without Bank's approval.

5-8 References to the Bank

1.18 The Borrower shall use the following language⁵ when referring to the Bank in the RFP and contract documents:

"[Name of the Borrower] has received [or, 'has applied for'] a [loan] from the [Saman Bank] (the Bank) in an amount equivalent to ..., toward the cost of [name of project], and intends to apply a portion of the proceeds of this [loan] to eligible payments under this Contract. Payments by the Bank will be made only at the request of [name of Borrower or designate] and upon approval by the Bank, and will be subject, in all respects, to the terms and conditions of the [Loan] Agreement. The [Loan] Agreement prohibits a withdrawal from the

[Loan] Account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than [name of Borrower] shall derive any rights from the [Loan] Agreement or have any claim to the proceeds of the [Loan].”

5-9 Training or Transfer of Knowledge

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

5-10 Language

5-10-1 The RFP and the proposals shall be prepared in one of the three following languages, selected by the Borrower

5-10-2 the contract signed with the winning consultant shall be written in the language so selected for the RFP, and this language shall be the one that governs the contractual relations between the Borrower and the selected consultant.

5-10-3 if the RFP and bidding documents are prepared in two languages, consultants shall be permitted to submit their proposals in either of these two languages. In such case, the contract signed with the selected consultant shall be written in the language in which its proposal was submitted, in which case this language shall be the one that governs the contractual relations between the Borrower and the winning consultant. If the contract is signed in a language other than English, or Persian, and the contract is subject to Bank’s prior review, the Borrower shall provide the Bank with a translation of the contract in the internationally used language in which the RFP was prepared. Consultants shall not be required nor permitted to sign contracts in two languages.

5-11 Fraud and Corruption

It is the Bank's policy to require that Borrowers (including beneficiaries of Bank loans), as well as consultants under Bank-financed contracts, observe the highest standard of ethics during the selection and execution of such contracts. Under this policy:

5-11-1 for the purposes of this provision, the terms set forth will reject a proposal for award if it determines that the consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question;

5-11-2 will cancel the portion of the Loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the Loan were engaged in corrupt, fraudulent, collusive, or coercive practices during the selection process or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;

5-11-3 will sanction a consultant, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, a Bank-financed contract; and

5-11-4 will have the right to require that, in contracts financed by a Bank loan, a provision be included requiring consultants to permit the Bank to inspect their accounts and records and other documents relating to the submission of proposals and contract performance and to have them audited by auditors appointed by the Bank.

5-11-5 With the specific agreement of the Bank, a Borrower may introduce, into the RFP for large contracts financed by the Bank, a requirement that the consultant include in the proposal an undertaking of the consultant to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery), as listed in the RFP.⁶The Bank will accept the introduction of such a requirement at the request of the Borrowing country,

provided the arrangements governing such undertaking are satisfactory to the Bank.

5-11-6 As an example, such an undertaking might read as follows: “We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will observe the laws against fraud and corruption in force in the country of the Client, as such laws have been listed by the Client in the RFP for this contract.”

5-12 Procurement Plan

5-12-1 as part of the preparation of the project, the Borrower shall prepare and, before Loan negotiations, furnish to the Bank for its approval, a Procurement Plan⁷ acceptable to the Bank setting forth:

- (a) The particular contracts for consulting services required to carry out the project during an initial period of at least 18 months;
- (b) The proposed methods for selection of consultants services; and
- (c) The related Bank review procedures.⁸

5-12-2 The Borrower shall update the Procurement Plan annually or as needed throughout the duration of the project.

5-12-3 The Borrower shall implement the Procurement Plan in the manner in which it has been approved by the Bank.

5-12-4 if the Project includes the procurement of goods, works, and non-consulting services, the Procurement Plan should also include the methods for procurement of goods, works, and non-consulting services in accordance with the Guidelines: Procurement under saman bank procurement guidelines for goods, works and services.

5-12-5 The Bank will disclose the initial Procurement Plan to the public after the related loan has been approved; additional updates will be disclosed after the Bank has approved them.

5-13 currency - RFPs shall clearly state that firms may express the price for their services, in any fully convertible currency. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided the proposal includes no more than three foreign currencies. The Borrower may require consultants to state the portion of the price representing costs in the currency of the Borrower’s country. Payment under the

contract shall be made in the currency or currencies in which the price is expressed in the proposal.

5-14 Price adjustment to adjust the remuneration for foreign and/or local inflation, a price adjustment provision shall be included in the contract if its duration is expected to exceed 18 months. Contracts of shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable.

5-15 Payment Provisions, Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, shall be agreed upon during negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for example, for mobilization costs) exceeding 10 percent of the contract amount should normally be backed by advance payment securities.

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

(a) Consultants can be paid directly by the Bank at the request of the Borrower or exceptionally through a Letter of Credit;

(b) Only disputed amounts shall be withheld, with the remainder of the invoice paid in accordance with the contract; and

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

5-16 Bid and Performance Securities

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

5-17 Borrowers' Contribution

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

5-18 Professional Liability

The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the consultant's liability to the Borrower will be governed by the applicable law, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that:

- (a) There must be no such limitation in case of the consultant's gross negligence or willful misconduct;
- (b) the consultant's liability to the Borrower may in no case be limited to less than a multiplier of the total value of the contract to be indicated in the RFP and in the special conditions of the contract (the amount of such limitation will depend on each specific case); and
- (c) Any such limitation may deal only with the consultant's liability toward the client and not with the consultant's liability toward third parties.

5-19 Staff Substitution

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

5-20 Applicable Law and Settlement of Disputes

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

6- Types of Contracts

6-1 Lump Sum Contract

Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple

planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth .Payments are linked to outputs (deliverables),such as reports, drawings, bills of quantities, bidding documents, and software programs. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

6-2 Time-Based Contract

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

6-3 Retainer and/or Contingency (Success) Fee Contract

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

6-4 Percentage Contract

These contracts are commonly used for architectural services. They may be also used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured

or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitively bid. It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on affixed target cost and covers precisely defined services (for example, not works supervision).

6-5 Indefinite Delivery Contract (Price Agreement)

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

7-REVIEW BY THE BANK OF THE SELECTION OF CONSULTANTS

Scheduling the Selection Process

7-1 The Bank shall review the selection process for the hiring of consultants proposed by the Borrower in the Procurement Plan to ensure compliance with the Loan Agreement and these Guidelines. The Procurement Plan shall cover an initial period of at least 18 months. The Borrower shall update the Procurement Plan on an annual basis or as needed always covering the next 18 months period of project implementation. Any revisions proposed to the Procurement Plan shall be furnished to the Bank for its prior approval.

Prior Review

7-2 With respect to all contracts that are subject to the Bank’s prior review:

7-2-1 before inviting proposals, the Borrower shall furnish to the Bank for its review and “no objection” the proposed cost estimate and RFP (including the short list). The Borrower shall make such

modifications to the short list and the documents as the Bank reasonably requests. Any further modification shall require the Bank's "no objection" before the RFP is issued to the short-listed consultants.⁹

7-2-2 after the technical proposals have been evaluated, the Borrower shall furnish to the Bank, in sufficient time for its review, a technical evaluation report (prepared, if the Bank shall so request, by experts acceptable to the Bank) and a copy of the proposals, if requested by the Bank. If the Bank determines that the technical evaluation is inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination; otherwise, the Bank shall issue a "no objection" to the technical evaluation. The Borrower shall also request the Bank's "no objection" if the evaluation report recommends rejection of all proposals.

7-2-3 The Borrower may precede with the opening of the financial proposals only after receiving the Bank's "no objection" to the technical evaluation. When price is a factor in the selection of the consultant, the Borrower may then proceed with the financial evaluation in accordance with the provisions of the RFP. The Borrower shall furnish to the Bank, for its information, the final evaluation report along with its recommendation of the winning firm. The Borrower shall notify the firm that received the highest total score in the final evaluation of its intention to award the contract to the firm and shall invite the firm for negotiations.

7-2-4 if the Borrower receives complaints from consultants, a copy of the complaint and a copy of the Borrower's response shall be sent to the Bank for information.

7-2-5 if as result of analysis of a complaint the Borrower changes its contract award recommendation, the reasons for such decision and a revised evaluation report shall be submitted to the Bank for no objection. The Borrower shall provide a republication of the contract award in the format of paragraph 2.28 of these Guidelines.

7-2-6 after negotiations are completed, the Borrower shall furnish to the Bank, in sufficient time for its review, a copy of the initialed negotiated contract. If the negotiated contract resulted in substitution of key staff or any changes in the TOR and original proposed contract,

the Borrower shall highlight the changes and provide an explanation of why these changes are appropriate and necessary.

7-2-7 if the Bank determines that the final evaluation reports, recommendation for award, and/or negotiated contract are inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination. Otherwise, the Bank shall provide its final “no objection” to the contract award. The Borrower shall confirm the award of the contract only after receiving the “no objection” from the Bank.

7-2-8 Following contract signature, the Borrower shall furnish to the Bank a copy of the final contract before submitting the first application for disbursement under the contract.

7-2-9 the description and amount of the contract, together with the name and address of the firm, shall be subject to public disclosure by the Bank upon the Borrower’s receipt of the signed copy of the contract.

7-2-10 If a contract is written in the national language (or the language used nation-wide in the borrower’s country for commercial transactions), a certified translation of the evaluation reports and the initialed negotiated draft contract in the internationally used language specified in the RFP shall be furnished to the Bank for facilitating the review. Such certified translation shall also be furnished to the Bank for any subsequent modifications of such contracts.

7-3 Post Review

7-3-1 The Borrower shall retain all documentation with respect to each contract not governed by paragraph two during project implementation and up to two years after the closing date of the Loan Agreement. This documentation would include, but not be limited to, the signed original of the contract, the analysis of the respective proposals, and recommendations for award, for examination by the Bank or by its consultants, except that for contracts awarded on the basis of single- source selection, it shall include the record of justification, the qualifications and experience of the consultants, and the signed original of the contract. The Borrower shall also furnish such documentation to the Bank upon request. The Bank shall, if it determines that the contract was not awarded in accordance with the agreed procedures, as reflected in the Loan Agreement and further elaborated in the Procurement Plan approved by the Bank or the

contract itself is not consistent with such procedures, promptly inform the Borrower that article 5-7 of the Guidelines shall apply and state the reasons for such determination

7-3-2 borrower before granting a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, the Borrower shall seek the Bank's "no objection" to the proposed extension, modification, substitution, waiver, or change. If the Bank determines that the proposal would be inconsistent with the provisions of the Loan Agreement and/or Procurement Plan, it shall promptly inform the Borrower and state the reasons for its determination. A copy of all amendments to the contract shall be furnished to the Bank.

8 QUALITIES-AND COST- BASED SELECTION (QCBS)

The Selection Process

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

2.2 The selection process shall include the following steps:

- (a) Preparation of the TOR;
- (b) Preparation of cost estimate and the budget;
- (c) Advertising;
- (d) Preparation of the short list of consultants;
- (e) Preparation and issuance of the RFP [which should include: the Letter of Invitation (LOI); Instructions to Consultants (ITC); the TOR and the proposed draft contract;
- (f) Receipt of proposals;
- (g) Evaluation of technical proposals: consideration of quality;
- (h) Public opening of financial proposals;
- (i) Evaluation of financial proposal;
- (j) Final evaluation of quality and cost; and

(k) Negotiations and award of the contract to the selected firm.

8-1 Terms of Reference (TOR)

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

However, TOR should not be too detailed and in flexible, so that competing consultants may propose their own methodology and staffing. Firms shall be encouraged to comment on the TOR in their proposals. The Borrower's and consultants' respective responsibilities should be clearly defined in the TOR.

8-2 Cost Estimate (Budget)

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

8-3 Advertising

For all projects the Borrower is required to prepare and submit to the Bank a draft General Procurement Notice. The Bank will arrange for its publication in relation network of interest, the Borrower shall

include a list of expected consulting assignments in the General Procurement Notice,¹⁰ and shall advertise a request for expressions of interest for each contract for consulting firms in the national gazette or a national newspaper or in an electronic portal of free access. In addition, contracts expected to cost more than US\$ 200,000 shall be advertised in saman bank web site may also advertise requests for expressions of interest in an international newspaper or a technical magazine. The information requested shall be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Not less than 14 days from date of posting on saman bank web site shall be provided for responses, before preparation of the shortlist.

8-4 Short List of Consultants

8-4-1 The Borrower is responsible for preparation of the short list. The Borrower shall give first consideration to those firms expressing interest that possess the relevant qualifications. Short lists shall submit to the bank by the borrower.

8-4-2 the Bank (project finance and management office) has issued a "no objection" to borrower short list after compliance with guideline.

8-4-3 however, once the Bank (project finance and management office) has issued a "no objection" to a short list, the Borrower shall not add or delete names without the Bank's approval. Firms that expressed interest, as well as any other firm those specifically so requests shall be provided the final short list of firms.

8-4-4 The short list may comprise entirely national consultants (firms registered or incorporated in the country), if the assignment is below the ceiling (or ceilings) established in the Procurement Plan approved by the Bank,^{11a} a sufficient number of qualified firms is available for having a short list of firms with competitive costs, and when competition including foreign consultants is prima facie not justified or foreign consultants have not expressed interest.

8-4-5 the short list should preferably comprise consultants of the same category, similar capacity, and business objectives. Consequently, the short list should normally be composed of firms of similar experience or of not-for-profit organizations (NGOs, Universities, etc.) acting in

the same field of expertise. If mixing is used, the selection should be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualifications (CQS) (for small assignments).¹²The short list shall not include Individual Consultants.

8-5 Preparation and Issuance of the Request for Proposals (RFP)

8-5-1 The RFP shall include (a) a Letter of Invitation, (b) Information to Consultants, (c) the TOR, and (d) the proposed contract. Borrowers shall use the applicable standard RFPs issued by the Bank with minimal changes, acceptable to the Bank, as necessary to address project-specific conditions. Any such changes shall be introduced only through the RFP data sheet. Borrowers shall list all the documents included in the RFP. The Borrower may use an electronic system to distribute the RFP, provided that the Bank is satisfied with the adequacy of such system. If the RFP is distributed electronically, the electronic system shall be secure to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

8-5-2 Letter of Invitation (LOI)

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

8-5-3 Instructions to Consultants (ITC)

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

evaluation of proposals, decision on award, Bank review, and finalization of contract negotiations. A detailed list of the information that should be included in the

8-5-4 Contract

Section 6 of these Guidelines briefly discusses the most common types of contracts. Borrowers shall use the appropriate Standard Form of Contract issued by the Bank with minimum changes, acceptable to the Bank, as necessary to address specific country and project issues. Any such changes shall be introduced only through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Bank's Standard Form. These forms of contract cover the majority of consulting services. When these forms are not appropriate (for example, for pre shipment inspection, procurement services, training of students in universities, advertising activities in privatization, or twinning) Borrowers shall use other contract forms acceptable to the Bank.

8-5-5 Receipt of Proposals

The Borrower shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment, but normally shall not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarifications about the information provided in the RFP. The Borrower shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals). If necessary, the Borrower shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The technical envelopes shall be opened immediately by a committee of officials drawn from the relevant departments (technical, finance, legal, as appropriate), after the closing time for submission of proposals. The financial proposals shall remain sealed and shall be deposited with a reputable public auditor or independent

authority until they are opened publicly. Any proposal received after the closing time for submission of proposals shall be returned unopened. Borrowers may use electronic systems permitting consultants to submit proposals by electronic means, provided the Bank is satisfied with the adequacy of the system, including, inter alia, that the system is secure, maintains the confidentiality and authenticity of proposals submitted, uses an electronic signature system or equivalent to keep consultants bound to their proposals, and only allows proposals to be opened with due simultaneous electronic authorization of the consultant and the Borrower. In this case, consultants shall continue to have the option to submit their proposals in hardcopy.

8-5-6 Evaluation of Proposals: Consideration of Quality and Cost

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

8-5-6-1 Evaluation of the Quality

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

Consultant's specific experience: 0 to 10 points

Methodology: 20 to 50 points

Key personnel: 30 to 60 points

Transfer of knowledge:130 to 10
Points Participation by nationals:140 to 10 points
Total: 100 points

8-5-6-1-1- The Borrower shall normally divide these criteria into sub criteria. For example, sub criteria under methodology might be innovation and level of detail. However, the number of sub criteria should be kept to the essential. The Bank recommends against the use of exceedingly detailed lists of sub criteria that may render the evaluation a mechanical exercise more than a professional assessment of the proposals. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short- listing the consultant. More weight shall be given to the methodology in the case of more complex assignments (for example, multidisciplinary feasibility or management studies).

8-5-6-1-2 Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Borrower shall review the qualifications and experience of proposed key personnel in their curricula vitae, which must be accurate, complete, and signed by an authorized official of the consulting firm and the individual proposed.

The individuals shall be rated in the following three sub criteria, as relevant to the task:

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

8-5-6-1-3 Borrowers shall evaluate each proposal on the basis of its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve a minimum technical score specified in the RFP.

8-5-6-1-4 At the end of the process, the Borrower shall prepare a Technical Evaluation Report of the “quality” of the proposals and, in the case of contracts subject to prior review, submit it to the Bank for its review and “no objection”. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until completion of the project and its audit.

8-5-6-2 Evaluation of Cost

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

8-5-6-2-1 The Borrower shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For the purpose of comparing proposals, the costs shall be converted to a single currency selected by the Borrower (local currency or fully convertible foreign currency) as stated in the RFP. The Borrower shall make this conversion by using the selling (exchange) rates for those currencies quoted by an official source (such as the Central Bank) or by a commercial bank or by an internationally circulated newspaper

for similar transactions. The RFP shall specify the source of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than four weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposal.

8-5-6-2-2 For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes¹⁵ on the contract and income tax payable to the country of the Borrower on the remuneration of services rendered in the country of the Borrower by non-resident staff of the consultant. The cost shall include all consultants’ remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the RFP.

8-5-6-3 Combined Quality and Cost Evaluation

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

8-5-7 Negotiations and Award of Contract

8-5-7-1 Negotiations shall include discussions of the TOR, the methodology, staffing, Borrower’s inputs, and special conditions of the contract. These discussions shall not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed methodology shall be in

corporate in “Description of Services,” which shall form part of the contract.

8-5-7-2 The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment.¹⁶ If this is not the case and if it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

8-5-7-3 financial negotiations shall include clarification of the consultants’ tax liability in the Borrower’s country (if any) and how this tax liability has been or would be reflected in the contract. As Lump-Sum Contracts payments are based on delivery of outputs (or products), the offered price shall include all costs (staff time, overhead, travel, hotel, etc.). Consequently, if the selection method for a Lump-sum contract included price as a component, this price shall not be negotiated. In the case of Time-based Contracts, payment is based on inputs (staff time and reimbursable) and the offered price shall include staff rates and an estimation of the amount of reimbursable. When the selection method includes price as a component, negotiations of staff rates should not take place, except in special circumstances, like for example, staff rates offered are much higher than typically charged rates by consultants for similar contracts. Consequently, the prohibition of negotiation does not preclude the right of the client to ask for clarifications, and, if fee are very high, to ask for change of fees, after due consultation with the Bank. Reimbursable are to be paid on actual expenses incurred at cost upon presentation of receipts and therefore are not subject to negotiations. However, if the client wants to define ceilings for unit prices of certain reimbursable (like travel or hotel rates), they should indicate the maximum levels of those rates in the RFP or define a per diem in the RFP.

8-5-7-4 If the negotiations fail to result in an acceptable contract, the Borrower shall terminate the negotiations and invite the next ranked firm for negotiations. The Borrower shall consult with the Bank prior

to taking this step. The consultant shall be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Borrower shall not reopen the earlier negotiations. After negotiations are successfully completed and the Bank has issued its no objection¹⁷ to the initialed negotiated contract, the Borrower shall promptly notify other firms on the short list that they were unsuccessful.

8-5-8 Publication of the Award of Contract

After the award of contract, the borrower shall publish the following information:

- (a) The names of all consultants who submitted proposals;
- (b) The technical points assigned to each consultant;
- (c) The evaluated prices of each consultant;
- (d) The final point ranking of the consultants;
- (e) The name of the winning consultant and the price, duration, and summary scope of the contract. The same information shall be sent to all consultants who have submitted proposals.

8-5-9 Debriefing

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

8-5-10 Rejection of All Proposals, and Re invitation

The Borrower will be justified in rejecting all proposals only if all proposals are nonresponsive because they present major deficiencies in complying with the TOR or if they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated in consultation with the Bank. Before all the proposals are rejected and new proposals are invited, the Borrower

shall notify the Bank, indicating the reasons for rejection of all proposals, and shall obtain the Bank's "no objection" before proceeding with the rejection and the new process. The new process may include revising the RFP (including the short list) and the budget. These revisions shall be agreed upon with the Bank.

8-5-11 Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the publication of the award of contract, except as provided in article 7-5-6-1-3 and 7-5-7-4.

9-Quality-Based Selection (QBS)

9-1 QBS is appropriate for the following types of assignments:

(a) complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multispectral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);

(b) assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and

(c) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

9-2-1 In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates.

9-2-2 If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Borrower shall ask the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Borrower and the consultant shall then negotiate the financial proposal and the contract. All other aspects of the selection process shall be identical to those of QCBS, including the publication of the Award of Contract as described in paragraph 2.28 except that only the price of the winning firm is published. If consultants were requested to provide financial proposals initially together with the technical proposals, safeguards shall be built in as in QCBS to ensure that the price proposal of only the selected firm is opened and the rest returned unopened, after the negotiations are successfully concluded.

9-2-3 financial negotiations under QBS includes negotiations of all consultant's remuneration and other expenses

10 Selections under a Fixed Budget (FBS)

This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the price proposals shall be opened in public and prices shall be read out aloud. Proposals that exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. The publication of the Award of Contract shall be as described in article 7-5-8.

11 Least-Cost Selection (LCS)

This method is only appropriate for selecting consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist. Under this method, a "minimum" qualifying mark for the "quality" is established. Proposals, to be

submitted in two envelopes, are invited from a short list. Technical proposals are opened first and evaluated. Those securing less than the minimum qualifying mark¹⁹ are rejected, and the financial proposals of the rest are opened in public. The firm with the lowest price shall then be selected and the publication of the Award of Contract shall be as described in article 7-5-8. Under this method, the minimum qualifying mark shall be established, understanding that all proposals above the minimum compete only on “cost.” The minimum qualifying mark shall be stated in the RFP.

12 Selection Based on the Consultants’ Qualifications (CQS)

This method may be used for small²⁰ assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Borrower shall prepare the TOR, request expressions of interest and information on the consultants’ experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract.

13 Single-Source Selection (SSS)

13-1 Single-sources election of consultants does not provide the benefits of competition in regard to quality and cost, lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of the client and the project, and the Bank’s responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

13-1-1 Single-source selection may be appropriate only if it presents a clear advantage over competition:

- (a) For tasks that represent a natural continuation of previous work carried out by the firm (see next paragraph),
- (b) In emergency cases, such as in response to disasters and for consulting services required during the period of time immediately following the emergency,

- (c) For very small assignments, or
- (d) When only one firm is qualified or has experience of exceptional worth for the assignment.

13-1-2 when continuity for downstream work is essential, the initial RFP shall outline this prospect, and, if practical, the factors used for the selection of the consultant shall take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition subject to satisfactory performance in the initial assignment. For such downstream assignments, the Borrower shall ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the Borrower, which shall then be negotiated.

13-1-3 if the initial assignment was not awarded on a competitive basis or was awarded under tied financing or if the downstream assignment is substantially larger in value, a competitive process acceptable to the Bank shall normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest. The Bank will consider exceptions to this rule only under special circumstances and only when a new competitive process is not practicable.

13-1-4 The Borrower shall published one quarterly and in the format of a summarized table covering base on article 7-5-8.

14 Commercial Practices

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

15 Selections of Particular Types of Consultants

15-1 Use of Nongovernmental Organizations (NGOs)

NGOs are voluntary nonprofit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGOs may be included in the short list if they express interest and provided that the Borrower and the Bank are satisfied with their qualifications. Borrowers should preferably not include consulting firms in the short list for services for which NGOs are better qualified. For assignments that emphasize participation and considerable local knowledge, the short list may comprise entirely NGOs. If so, the QCBS procedure shall be followed, and the evaluation criteria shall reflect the unique qualifications of NGOs, such as voluntarism, nonprofit status, local knowledge, scale of operation, and reputation. Borrowers may select the NGO on a single-source basis, provided the criteria outlined in article 12-1-1 of these Guidelines are fulfilled.

15-2 Procurement Agents (PAs)

When a Borrower lacks the necessary organization, resources, or experience, it may be efficient and effective for it to employ, as its agent, a firm that specializes in handling procurement. When PAs are specifically used as “agents” handling the procurement of specific items and generally working from their own offices, they are usually paid a percentage of the value of the procurements handled, or a combination of such a percentage and a fixed fee. In such cases PAs shall be selected using QCBS procedures with cost being given a weight up to 50 percent. However, when PAs provide only advisory services for procurement or act as “agents” for a whole project in a specific office for such project they are usually paid on a time basis, and in such cases, they shall be selected following the appropriate procedures for other consulting assignments using QCBS procedures and time-based contract, specified in these Guidelines. The agent shall follow all the procurement procedures outlined in the Loan Agreement and in the Procurement Plan approved by the Bank on behalf of the Borrower, including use of Bank Standard Request for Proposals, review procedures, and documentation

15-3 Inspection Agents

Borrowers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the Borrower country. The inspection by such agencies usually covers the quality and

quantity of the goods concerned and reasonableness of price. Inspection agencies shall be selected using QCBS procedures giving cost a weight up to 50 percent and using a contract format with payments based on a percentage of the value of goods inspected and certified.

15-4 Banks

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

15-5 Auditors

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They shall be selected according to QCBS, with cost as a substantial selection factor (40-50 points) or by the “Least-Cost Selection” outlined in article 10. For very small assignments CQS may be used.

15-6 “Service Delivery Contractors

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

16 SELECTIONS OF INDIVIDUAL CONSULTANTS CRITERIA

16-1 Individual consultants are employed on assignments for which (a) teams of personnel are not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement. When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.

16-2 Individual consultant’s selection criteria

16-2-1 Individual consultants are selected on the basis of their qualifications for the assignment. Advertisement is not required²³ and consultants do not need to submit proposals. Consultants shall be selected through comparison of qualifications of at least three candidates among those who have expressed interest in the assignment or have been approached directly by the Borrower. Individuals considered for comparison of qualifications shall meet the minimum relevant qualifications and those selected to be employed by the Borrower shall be the best qualified and shall be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and government organization.

16-2-2 From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these Guidelines shall apply to the parent firm.

16-2-3 Individual consultants may be selected on a sole-source basis with due justification in exceptional cases such as:

- (a) Tasks that are a continuation of previous work that the consultant has carried out and for which the consultant was selected competitively;
- (b) Assignments with total expected duration of less than six months;
- (c) emergency situations resulting from natural disasters; and
- (d) When the individual is the only consultant qualified for the assignment.

17APPENDIX 1: INSTRUCTIONS TO CONSULTANTS (ITC)

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

- (a) A very brief description of the assignment;
- (b) Standard formats for the technical and financial proposals;
- (c) The names and contact information of officials to whom clarifications shall be addressed and with whom the consultants' representative shall meet, if necessary;
- (d) details of the selection procedure to be followed, including (i) a description of the two-stage process, if appropriate; and (ii) a listing of the technical evaluation criteria and weights given to each criterion; (iii) the details of the financial evaluation; (iv) the relative weights for quality and cost in the case of QCBS; (v) the minimum pass score for quality; and (vi) the details on the public opening of financial proposals;
- (e) An estimate of the level of key staff inputs (in staff-months) required of the consultants or the total budget, but not both;
- (f) Indication of minimum experience, academic achievement, and so forth, expected of key staff;
- (g) Details and status of any external financing;
- (h) Information on negotiations; and financial and other information that shall be required of the selected firm during negotiation of the contract;
- (i) The deadline for submission of proposals;
- (j) Currency (ies) in which the costs of services shall be expressed, compared, and paid;

- (k) Reference to any laws of the Borrower's country that may be particularly relevant to the proposed consultants' contract;
- (l) A statement that the firm and any of its affiliates shall be disqualified from providing downstream goods, works, or services under the project if, in the Bank's judgment, such activities constitute a conflict of interest with the services provided under the assignment;
- (m) the method in which the proposal shall be submitted, including the requirement that the technical proposals and price proposals be sealed and submitted separately in a manner that shall ensure that the technical evaluation is not influenced by price;
- (n) A request that the invited firm (i) acknowledges receipt of the RFP and informs the Borrower whether or not it will be submitting a proposal;
- (o) The short list of consultants being invited to submit proposals and whether or not associations between short-listed consultants are acceptable;
- (p) the period for which the consultants' proposals shall be held valid and during which the consultants shall undertake to maintain, without change, the proposed key staff, and shall hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;
- (q) The anticipated date on which the selected consultant shall be expected to commence the assignment;
- (r) a statement indicating (i) whether or not the consultants' contract and personnel shall be tax-free or not; if not, (ii) what the likely tax burden will be or where this information can be obtained in a timely basis and a statement requiring that the consultant shall include in its financial proposal a separate amount clearly identified, to cover taxes;
- (s) If not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the Borrower;
- (t) Phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- (u) The procedure to handle clarifications about the information given in the RFP; and
- (v) Any conditions for subcontracting part of the assignment.

18 APPENDIXES 2: GUIDANCE TO CONSULTANTS

Purpose

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

18-1 Responsibility for Selection of Consultants

The responsibility for the implementation of the project, and therefore for the payment of consulting services under the project, rests solely with the Borrower. The Bank, for its part, is required by its Articles of Agreement to ensure that funds are paid from a Bank loan only as expenditures are incurred. Disbursements of the proceeds of a loan or a grant are made only at the Borrower's request.²⁴ Supporting evidence that the funds are used in accordance with the Loan Agreement and/or Procurement Plan (or the Trust Fund Agreement) shall be submitted with the Borrower's withdrawal application. Payment may be made (a) to reimburse the Borrower for payment(s) already made from its own resources, (b) directly to a third party (to the consultant), or (c) to a commercial bank for expenditures against a World Bank Special Commitment covering a commercial bank's letter of credit (a procedure that is exceptional in the case of consultants). As emphasized in paragraph 5-1 of these Guidelines, the Borrower is responsible for the selection and employment of consultants. It invites, receives, and evaluates proposals and awards the contract. The contract is between the Borrower and the Consultant. The Bank is not a party to the contract.

18-2 Bank's Role

3. As stated in these Guidelines (articles 7) the Bank reviews the RFP, the evaluation of proposals, award recommendations, and contract to ensure that the process is carried out in accordance with agreed procedures, as required in the Loan Agreement and further elaborated in the Procurement Plan. For all contracts subject to Bank's prior review, the Bank reviews the documents before they are issued, as described article 7. Also, if at any time in the selection process (even after the award of contract) the Bank concludes that the agreed procedures were not followed in any substantial respect, the Bank may declare misprocurement, as described in article 15-7. However, if

a Borrower has awarded a contract after obtaining the Bank's "no objection," the Bank will declare misprocurement only if the "no objection" was issued on the basis of incomplete, inaccurate, or misleading information furnished by the Borrower. Furthermore, if the Bank determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of the consultant, the Bank may impose the applicable sanctions set forth in article 8-5 of the Guidelines.

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

18-3 Information on Consultant Services

Information on consultant services, including a brief description of the nature of services, timing, estimated cost, staff-month, and so forth, will be, in the first instance, included in the Project Information Document (PID), which describes projects under preparation. At the same time, similar information will also be included. Such information will be continuously updated. Each project requires the publication of a General Procurement saman bank website, which will include a more detailed description of the required services, and the budgeted cost. The Project Appraisal Document (PAD) will provide yet more detailed information.

The Project Information Document (PID) and the Monthly Operational Summary (MOS) are available on the Internet and from the saman bank website. The PAD is available after the loan is approved.

18-4 Consultants' Role

18-4-1 When consultants receive the RFP, and if they can meet the requirements of the TOR and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the country of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents—especially in these election procedure and evaluation criteria—any

ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the Borrower, in writing, within the period specified in the RFP for seeking clarifications.

18-4-2- In this connection, it should be emphasized that the specific RFP issued by the Borrower governs each selection, as stated in article 2-4 of these Guidelines. If consultants feel that any of the provisions in the RFP are inconsistent with the Guidelines, they should also raise this issue with the Borrower.

18-4-3 Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP .It is essential to ensure accuracy in the curricula vitae of key staff submitted with the proposals. The curricula vitae shall be signed by the consultants and the individuals and dated .Noncompliance with important requirements will result in rejection of the proposal. Once technical proposals are received and opened, consultants shall not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once financial proposals are received, consultants shall not be required or permitted to change the quoted fee and so forth, except at the time of negotiations carried out in accordance with the provisions of the RFP. If an extension of validity of proposals was the reason that key staff were not available for a company, a change of key staff with equivalent or better qualification might be possible.

18-5 Confidentiality

10. As stated in article 8-5-11, the process of proposal evaluation shall be confidential until the publication of contract award; Confidentiality enables the Borrower and the Bank's reviewers to avoid either the reality or perception of improper interference. If, during the evaluation process, consultants wish to bring additional information to the notice of the Borrower, the Bank, or both, they should do so in writing.

18-6 Action by the Bank

18-6-1 Consultants are free to send copies of their communications on issues and questions with the Borrower to the Saman Bank or to write to the Saman Bank directly, when Borrowers do not respond promptly, or the communication is a complaint against the Borrower. All such communications should be addressed to head of project

finance and management, with a copy to the Executive VP Credit. Names of responsible managers are available in the website.

18-6-2 References received by the Bank from short-listed consultants prior to the closing date for submission of the proposal shall be, if appropriate, referred to the Borrower with the Bank's comments and advice, for action or response.

18-6-3 Communications that the Bank receives from consultants after the opening of the technical proposals shall be handled as follows. In the case of contracts not subject to prior review by the Bank, any communication shall be sent to the Borrower for due consideration and appropriate action. The Borrower's response shall be reviewed during subsequent supervision of the project by the Bank staff. In the case of contracts subject to prior review, the Bank shall examine the communication, in consultation with the Borrower, and if it needs additional information, shall request it from the Borrower. If additional information or clarification is required from the consultant, the Bank shall ask the Borrower to obtain it and comment on or incorporate it, as appropriate, in the evaluation report. The Bank's review will not be completed until the communication is fully examined and considered.

18-6-4 besides acknowledging receipt of communications, the Bank shall not enter into discussion or correspondence with any consultant during the selection and review process, until award of the contract is notified.

18-7 Debriefing

If after contract award, a consultant wishes to ascertain the grounds on which its proposal was not selected, it should address its request to the Borrower as indicated in article 8-5-9. If the consultant is not satisfied with the explanation given and wishes to seek a meeting with the Bank, it may address the Regional Procurement Adviser for the borrowing country, who will arrange a meeting at the appropriate level and with the relevant staff. In this discussion, only the consultant's proposal can be discussed and not the proposals of competitors.

19- Acronyms

CQS	Selection Based on Consultants' Qualifications
FBS	Selection under a Fixed Budget
IDA	International Development Agency
ITC	Instructions to Consultants
LCS	Least-Cost Selection
LOI	Letter of Invitation
MOS	Monthly Operational Summary
NGO	Non government Organization
PAD	Project Appraisal Document
PAs	Procurement Agents
PID	Project Information Document
QBS	Quality-Based Selection
QCBS	Quality- and Cost-Based Selection
RFP	Request for Proposal
SSS	Single-Source Selection
TOR	Terms of Reference
