

# Key Changes in the Guidelines for the Procurement of Consultant Services and in the Guidelines for the Procurement of Goods & Works



# Outline



Introduction



What's New in the Procurement of Consultant Services



What's New in the Procurement of Goods, Works, and Related Services

# Introduction

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## Changes in the Guidelines are of 2 Types



Amendments to Existing Provisions



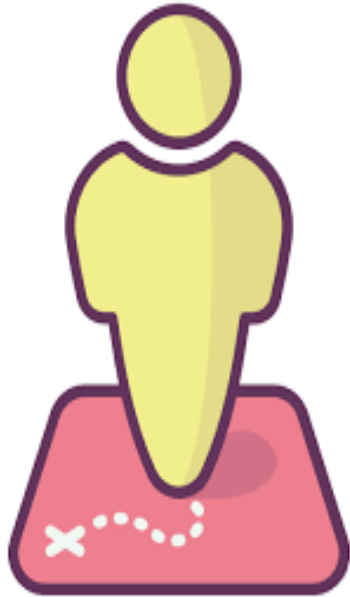
New Provisions

Some important changes are elaborated with their implications on the procurement process



# What's New in the Procurement of Consultant Services

# Amendments to Existing Provisions- The Guidelines for Procurement of Consultant Services



1. Provision for Eligibility Clauses

2. Definition of Member Countries Firm & Domestic Firm

3. Provision for Publication and Advertising of Procurement Notices

4. Provision for Shortlisting of Consultants

5. Use of UN Agencies

6. Types of Contracts

7. Price Adjustment

8. Post Review



# 1. Provision of Eligibility Clause

## Previous Guidelines

- “...The providers of Goods and works as well as consultancy services... shall be in strict compliance with the Boycott Regulations of the Organization of the Islamic Cooperation, League of Arab States and the African Union”.
- “The Bidders..... may acquire a certificate which certifies that the bidder is not black-listed”

## Current Guidelines

- *Clause 1.10: For Boycott Regulations, certificate requirement from IsDB embassies and consulates is revoked, and substitute with a letter of oath from the bidders*

## Implications

- *It simplifies the process*

## 2. Definition of Member Countries Firm & Domestic Firm

### Previous Guidelines

- *A Member Country Firm should be registered in a Member Country.*
- *A domestic firm of a Member Country should be registered or incorporated in the Beneficiary MC.*

### Current Guidelines

*The proposed definition is that the firm should be **established** or incorporated in the MC rather than be **registered** which permits non-MC firms that have been registered in the MC to be considered as MC firms.*

### Implications

- *It supports authentic MC firms.*
- *Encourages the participation of domestic consultants in projects*



### 3. Provision for Publication and Advertising of Procurement Notices

#### Previous Guidelines

- *GPN and SPN may be advertised in well-known technical magazines, newspapers, and trade publications of wide international circulation.*

#### Current Guidelines

- *Publication of the GPN in an international newspaper, which is very expensive for the beneficiary, is no more mandatory. Replaced with UNDB or dgMarket.*

#### Implications

- *Reduction in cost of advertisement in MCs and recognizes wide use of internet rather than paper-based advertisements.*

## 4. Provision for Shortlisting of Consultants

### Previous Guidelines

- *IsDB requires that the short-list consist of 6-8 consultants, reflecting a reasonable geographical distribution from IsDB Member Countries (except in the case of short lists consisting of domestic consultants only.)*

### Current Guidelines

- *There are three types of shortlists, namely:*
  - ❑ *International shortlists; MC shortlists and Domestic shortlists*
- *IsDB requires that any shortlist, whether international, MC or domestic, consist of five (5) to six (6) Consultants*

### Implications

- *Simplifies the process while ensuring reasonable competition.*

## 5. Use of UN Agencies

### Previous Guidelines

- *UN Agencies may be hired for specific assignments in the area of their expertise (health, education, food aid, etc.).*

### Current Guidelines

- *This provision was expanded to cover both UN and other specialized agencies.*

### Implications

- *It is going to result in greater flexibility to engage UN Agencies or specialized agencies in their area of expertise as consultants to undertake implementation support in circumstances where Beneficiary capacity is limited.*

## 6. Types of Contract

### Previous Guidelines

- *IsDB uses several types of Model or Standard Contracts for consultants' services:*
  - *Lump Sum Contracts*
  - *Time-Based Contracts*

### Current Guidelines

- *The Guidelines expanded the types of contracts, to include retainer and/or contingency (Success Fee), indefinite delivery contracts (including framework), and performance –based contract.*

### Implications

- *Additional types of contracts such as retainer and/or contingency (Success Fee), performance-based and indefinite delivery contracts provides the Beneficiary with increased flexibility for situations that justify use of such specialized forms of contact.*

## 7. Price Adjustments

### Previous Guidelines

- .... if the services continue beyond 12 months, price adjustments on account of inflation may be made by the application of a parametric formula based on relevant published indices as stipulated in the contract

### Current Guidelines

- If the contract duration is expected to exceed eighteen (18) months, a price adjustment formula shall be included in the contract to adjust the Consultant's fees for foreign and/or local inflation.

### Implications

- It will help to avoid project costs overrun

## 8. Post Review

### Previous Guidelines

- *The Annex of post review stipulated "the financing Agreement may provide that for contracts below a certain threshold indicated in the Financing Agreement, the Beneficiary may proceed with the appropriate procurement procedure without the prior review of the Bank up to contract award." Which is similar to a partial prior review.*

### Current Guidelines

- *The Annex was completely reworded to reflect the Post Review as the process of IsDB reviewing the Beneficiary's procurement documents following the award of the contract*

### Implications

- *It will increase the disbursement rate and reduce CUC (Cumulative Undisbursed Commitments).*

# New Provisions - The Guidelines for Procurement of Consultant Services

Beneficiary System



Standstill Period

Notification of Intention to Award a Contract for the Purpose of the Activation of Standstill Period

Publication of Award of Contract



# 1. Beneficiary System

## Current Guidelines

*IsDB may at its sole discretion (subject to its policies and rules, and applicable fiduciary and operational requirements) request that a Beneficiary uses its own procurement policies, procedures and systems to carry out procurement of Consultant Services where it believes such systems are compatible and comply with all appropriate IsDB Policy, Procedures and Guidelines that may exist at that time.*

## Implications

- *Enables the use country systems wherever possible. The use of country systems will reduce delays in project implementation, improve country ownership through greater incentive to focus on strengthening their own systems, increase disbursement rate, strengthen the institutions and systems, augment Beneficiary capacity as well as improve overall efficiency of the procurement process*



## 2. Notification of Intention to Award a Contract for the Purpose of the Activation of Standstill Period

### Current Guidelines

*Following the decision to award the contract, the Beneficiary shall promptly and simultaneously notify, by the quickest means available (e.g. electronic mail or facsimile), each responsive Proposer of its intention to award the contract to the successful Proposer.*

### Implications

- *The publication of notification of award is introduced to ensure transparency and initiate the standstill period.*
- *It will allow unsuccessful Proposers time to seek a debriefing and/or submit a procurement complaint challenging the decision to award the Notification of Intention to Award*

### 3. Standstill Period

#### Current Guidelines

For each contract financed by IsDB, the Beneficiary shall include, in the applicable Bidding Documents, a Standstill Period of a minimum of ten (10) Business Days ..... between the date of transmission of the Notification of Intention to Award the contract and the contract signature

#### Implications

- *It will allow unsuccessful Proposers time to seek a debriefing and/or submit a procurement complaint challenging the decision to award the Notification of Intention to Award*

## 4. Publication of Award of Contract

### Current Guidelines

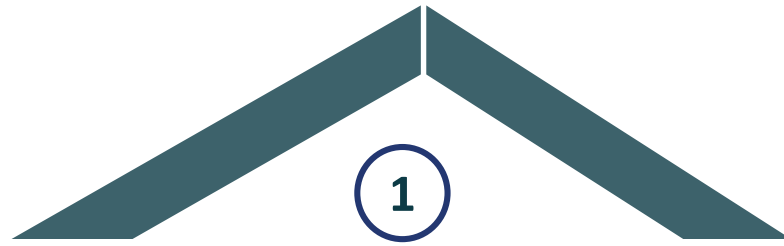
*After the award of contract, the Beneficiary shall publish a Contract Award Notice in UNDB Online or Dg Market websites in addition to IsDB's external website.*

### Implications

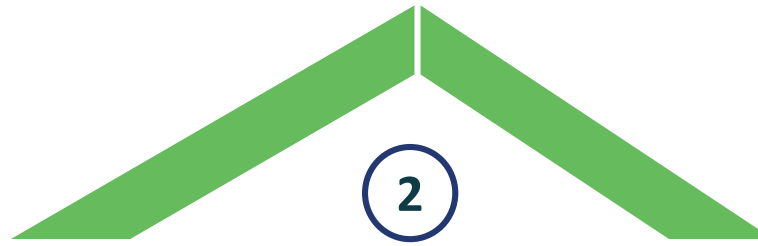
- *The new article will increase transparency of the procurement process and harmonization with other MDBs.*

# What's New in the Procurement of Goods, Works, and Related Services

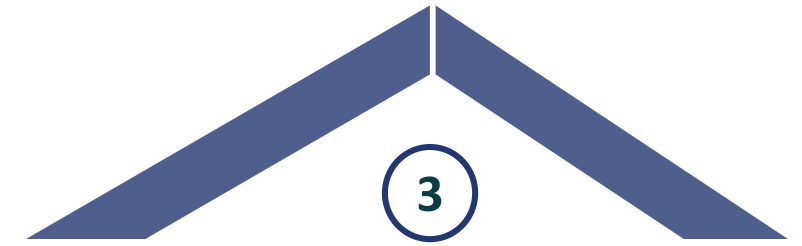
# Amendments to Existing Provisions- The Guidelines for Procurement of Goods, Works, and Related Services



Time Interval between  
Bid Invitation and Bid  
Submission



National Competitive  
Bidding (NCB)



Use of Bidding Documents  
National Competitive Bidding  
(NCB)

# 1. Time Interval between Bid Invitation and Bid Submission

## Previous Guidelines

- *The time allowed for preparation of bids ..... Generally not less than 60 days shall be allowed for ICB or ICB/MC.*
- *Where large civil works or complex process plants are involved, generally not less than 90 days shall be allowed .....*

## Current Guidelines

- *The provision is revised so that the time allowed for preparation and submission of Bids will depend upon the magnitude and complexity of the contract (generally 6 weeks and 12 weeks for complex contracts).*

## Implications

- *Reduces minimum time and Gives opportunity to define different time intervals based on nature/type of contracts in question.*

## 2. National Competitive Bidding (NCB)

### Previous Guidelines

- *NCB procedures may also be used where the advantages of ICB or ICB/MC are clearly outweighed by the administrative or financial burden involved.*
- *To be acceptable for use in IsDB-financed procurement, NCB procedures shall be reviewed and modified.... and open to domestic firms only.*

### Current Guidelines

- *NCB under the new Guidelines will also allow participation of **non-domestic firms** in respective procurement process should they accept the same terms and conditions applied to domestic/national firms.*

### Implications

- *Enhances harmonization of NCB procurement method with other MDBs.*
- *Gives opportunity to member countries to enhance their respective procurement framework.*
- *Increase level of competition*

### 3. Use of Bidding Documents National Competitive Bidding (NCB)

#### Previous Guidelines

- *IsDB standard bidding and contract documents shall be used*

#### Current Guidelines

- *The provision was revised to allow the Beneficiaries of IsDB Financing to use their own standard bidding documents, acceptable to IsDB, in NCB procurement method.*

#### Implications

- *It will give opportunity to member countries to enhance their standard procurement documents and pave the way forward for the use of national procurement system as they reflect IsDB's core procurement principles.*



# New Provisions - The Guidelines for Procurement of Goods, Works, and Related Services



# 1. Abnormally Low Bids (ALB)

## Current Guidelines

- An ALB typically covers Works and the Bid price appears so low that it raises **material concerns** with the Beneficiary as to the capability of the Bidder to perform the contract for the offered price.
- The Beneficiary shall seek written **clarifications** including detailed price analyses of its Bid  
*If, after evaluating the Bidder's price analyses, the Beneficiary determines that the Bidder has failed to demonstrate its capability to deliver the contract for the offered price, the Beneficiary, if provided for in the Bidding Documents, may reject the Bid subject to IsDB No-Objection.*

## Implications

- This provision is designed to provide safeguards against suppliers entering a low bid that doesn't fully reflect the realistic cost of delivery the contract and therefore is likely to result in either delivery failure and/or request for additional payments.
- This provision provides the flexibility for low bids to be rejected if the supplier can't adequately justify the grounds for the low bid.

## 2. Best and Final Offer (BAFO)

### Current Guidelines

- *The BAFO is an option under which the Beneficiary invites Bidders that have submitted substantially responsive Bids to submit their BAFOs to **improve their bids**, including by reducing prices, clarifying or modifying their bids, or providing additional information.*
- *If BAFO is to be applied, the Beneficiary shall engage the services of a **Probity Assurance Provider**, agreed with IsDB.*

### Implications

- *It will add flexibility to the procurement process to promptly achieve value for money, fit-for-purpose and mitigates risk of rebidding particularly in cases where offers are above the engineering cost estimates for contracts in question.*

### 3. Negotiation

#### Current Guidelines

- *In international competitive procurement subject to Prior Review, IsDB may agree to the Beneficiary's use of negotiations following Bid evaluation and before final contract award.*
- **Probity Assurance Provider**, agreed with IsDB should be engaged. Negotiations may involve terms and conditions, price, and/or social, environmental, and innovative aspects, as long as they **do not change the minimum requirements of the Bid**.
- *The Beneficiary shall negotiate first with the Bidder that has been evaluated as offering **maximum VfM**.*

#### Implications

- *This adds flexibility to the procurement process to promptly achieve value for money and fit-for-purpose.*

## 4. Procurement from Specialized Agencies

### Current Guidelines

- *There may be situations in which procurement directly from specialized agencies, acting as Suppliers or Contractors, pursuant to their own procedures, may be the most appropriate way of procuring:*
  - *small quantities of off-the-shelf Goods, primarily in the fields of education and health; and*
  - *specialized products where the number of Suppliers is limited such as for vaccines or drugs*

### Implications

- *The introduction of this article will enable procurement from specialized agents where this method of procurement is the optimal option.*
- *It will result in greater flexibility to engage specialized agencies where it is more appropriate because either the supply is small quantities of off-the-shelf good or limited suppliers supply the specialized product.*

## 5. Procurement under Disaster and Emergency Assistance

### Current Guidelines

- *The Guidelines allow Procurement of Goods, Works or related services, under disaster and emergency assistance, such as allowing ICB/MC requirements to be relaxed in favor of NCB, LIB or shopping as appropriate, with an abbreviated Bidding period or Direct Contracting to Contractors and Suppliers in specified circumstances.*

### Implications

- *It allows greater flexibility for Procurement of Goods, Works or related services, under disaster and emergency assistance. Will facilitate to immediately respond to urgent needs and demands of the member countries in such particular cases.*

## 6. Procurement Complaint Review Process

### Current Guidelines

*A new Annex E describes in detail how to make a procurement-related complaint, how the Beneficiary should manage the complaint, and what oversight is required from IsDB.*

### Implications

- *It Introduces and increases accountability and transparency, and systematic approach to dealing with procurement-related complaints.*
- *The Guidelines set out a clear protocol for the registering and handling of complaints with the aim of providing contractors with a greater level of confidence about both the integrity of a procurement process and that their complaints will be handled in a professional manner.*
- *It will attract prospective contractors to compete.*

## 7. Non-Compliance

### Current Guidelines

*Mis-procurement was elaborated to reflect different levels and severity of non-compliance, together with corresponding remedies*

### Implications

- *It permits a more proportionate response to the level of non-compliance.*
- *Provides additional flexibility to allow IsDB to apply a range of remedies that reflect the severity of the non-compliance from declaring a mis-procurement, cancelling the procurement and the relevant portion of financing to not cancelling the procurement but reallocating the portion of funds to another contract in the project.*



# Thank you!