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# **PROCUREMENT GUIDELINES FOR PROJECTS FINANCED BY THE NORDIC INVESTMENT BANK**



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# Definitions

In these Guidelines various terms have the following meanings:

“**Bank**” or “**NIB**” means the Nordic Investment Bank

“**Borrower**” means the borrower of a NIB loan or a loan guaranteed by NIB or, the borrower or beneficiary of NIB funds through a financial intermediary, and covers also any contracting entity acting on behalf of such borrower for implementation of its project and for procuring and signing contracts for works, goods and services to be financed from such loans. “Borrower” therefore may also be recognised as Promoter of the project, as the Contracting Authority (as defined in the procurement regulation of the EU) or, as the Employer, the Purchaser or the Client (as defined in the various types of contracts for works, plant, goods and services).

“**Public sector projects**” and “**public contracts**” within NIB’s member countries<sup>1</sup> and European Union are projects and contracts to which the national legislation on public procurement, deriving from the EU Directives apply.

“**Public sector projects**” and “**public contracts**” outside EU/EEA are projects and contracts

- a) which are financed by a loan extended to or guaranteed by a national, regional or local government, or a national, regional or local public entity or instrumentality of the country in question; or
- b) which are implemented by or on behalf of utilities<sup>2</sup> majority owned by a national, regional or local government, or a national, regional or local public entity or instrumentality of the country in question, other than such utilities operated by concessionaires who were awarded their concession following competitive tendering procedures acceptable to the Bank, and which in the Bank’s judgement are operating autonomously and are subject to bankruptcy and insolvency law; or
- c) which are implemented by or on behalf of a national, regional or local government or a national, regional or local public entity or instrumentality of the country in question or enterprises majority beneficially controlled by any of them, other than such enterprises that in the Bank’s judgement are operating autonomously in a competitive market environment and are subject to bankruptcy or insolvency law.

“**Private sector projects**” are projects that are not “public sector projects”.

“**Contractor**”, “**supplier**” and “**service provider**” mean any natural or legal person or public entity or group of such persons and/or bodies which offers on the market, respectively, the execution of works, supply of goods or provision of services.

“**Economic operator**” covers equally the concepts of contractor, supplier and service provider. Economic operators may be individuals, firms or public entities or associations between those.

An economic operator who has submitted a tender shall be designated a “**tenderer**”. One which has sought an invitation to take part in a restricted or negotiated procedure or a competitive dialogue shall be designated a “**candidate**”.

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<sup>1</sup> NIB’s member countries are Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden (Iceland and Norway are members of the European Economic Area (EEA) while the others are also members of the EU)

<sup>2</sup> Utilities” are authorities or entities, whether public or private, which directly provide or operate networks intended to provide a service to the public in water, waste water, electricity, gas, heat, telecommunications or public transport.

“**Consultant**” is provider of services of an intellectual or advisory nature, often related to studies or preparation, design and implementation of projects.

“**Consultancy services**” are services provided by Consultants.

The terms “**open procedures**”, “**restricted procedures**”, “**competitive dialogue**” and “**negotiated procedures**” have the meaning defined by the legislations of NIB member countries which derive from the EU Directives on procurement.

## **1. Introduction**

The purpose of these Procurement Guidelines is to inform those involved in a project or contract to be financed by the Nordic Investment Bank or under loans guaranteed by NIB, of the procedures to be followed in procuring works, goods and services required for the project.

These Guidelines apply specifically to the contracts identified for the Bank’s financing or guarantee. However, in order to ensure transparency in the procurement process and overall feasibility of the project, the Bank requires that procurement of other contracts or pertaining to other project components does not compromise the project’s technical, economic, financial, institutional and environmental viability.

The Guidelines are applicable for both public sector projects and private sector projects. However, major parts of these Guidelines concern only public sector projects outside NIB’s member countries and the European Union. Some sections are specifically applicable for public sector projects within member countries of NIB and EU while others provide guidance for private sector projects inside or outside EU/EEA.

These Guidelines are not intended to be full treatment of the subject and to cover all possible procurement cases. Therefore the Borrowers should acquaint themselves with widely recognised best procurement practices reflected in the directives of the EU and guidelines of other international financing institutions and multilateral development agencies. These Guidelines will be updated as deemed necessary by the Bank.

## **2. Main principles and policies of the Bank**

### **2.1 Mission and strategy**

The Bank promotes sustainable growth by providing long-term complementary financing, based on sound banking principles, to projects that strengthen competitiveness and enhance the environment.

The Bank promotes competitiveness and supports the environment by providing financing in the form of loans and guarantees for activities in which the Bank can add value and complement other financing sources. Moreover, the Bank assesses the environmental aspects of all its financing.

While maintaining focus on activities in the member countries, the Bank aims at continuous activities in the neighbouring areas and in other countries where a mutual interest is identified.

### **2.2 Bank’s policy on procurement**

Aligned with its mission, NIB emphasizes economy, efficiency, transparency and accountability in both public and private sector projects. Sound procurement policies and practices are an integral part of this concept. Competition is the fundamental principle of good procurement practice. Rational and cost-effective use of funds requires that the works, goods and services procured are of appropriate quality, and acquired at competitive prices and in a timely manner.

In addition, equal treatment and non-discrimination of tenderers, transparency of the procurement process, and selection of the economically most advantageous offer are the guiding principles of good public procurement.

At the level of specific projects, the efficiency of the procurement process directly affects the costs and the time required for project execution and the ultimate performance of the project. Good procurement practices lead to significant time and money savings and help ensure successful project implementation and lending transactions.

The Bank's policy is that public sector contracts should normally be awarded on the basis of international competitive tendering. Contracts may be awarded on the basis of other procurement methods in specially justified cases or when contract values are expected to be below the prescribed thresholds for use of the international tender procedures.

As described in these Guidelines, in public sector projects located within NIB's member countries and the EU, the Bank requires that the applicable EU regulations on public procurement are complied with. In public sector projects located in other countries, the Bank requires that procurement practices are in line with those of the EU or international financing institutions, with the necessary procedural adaptations.

### **2.3 Environmental and social policies of the Bank**

NIB recognises that taking ecological and social aspects into account is part of good business and leads to sustainable development. The Bank promotes the application of best practices regarding environmental and social matters as set out in the Bank's Environmental Policy. The Borrowers are responsible to ensure that projects financed by the Bank comply with the environmental and social requirements of the Bank.

### **2.4 Co-financed projects**

The Bank works in close cooperation with other international financial institutions (IFIs), multilateral and bilateral development agencies, export credit agencies, national financial institutions and commercial entities.

In **parallel co-financing**, separate project components or contracts are financed by separate financiers. In this case, the procedures adopted by each co-financier apply to those project components or contracts that it finances. However, the Bank may agree on a case by case basis to the application of other than these Procurement Guidelines to contracts financed by the Bank.

In **joint co-financing**, two separate financiers, with different procurement provisions agree to finance the same project, component or contract. When contracts are co-financed on a joint basis, NIB may agree that the co-financier's procurement guidelines can be applied.

### **2.5 Financial intermediaries**

When the Bank makes a loan to an intermediary (usually a financial institution or a body of a sovereign state or a regional financial institution) for on-lending, it requires such intermediary to take all the requisite measures to ensure that the final beneficiaries procure the works, goods and services in accordance with applicable legal framework, in line with these Guidelines and following appropriate procedures in view of the circumstances, resulting to selection of the economically most advantageous option. Public sector beneficiaries of sub-loans must follow the principles laid out in these Guidelines for public sector projects while private beneficiaries, such as small and medium sized enterprises, may use normal procurement practices of private sector operations acceptable to the Bank.

## 2.6 Eligibility

### 2.6.1 Eligibility for NIB loans and guarantees

Financing from NIB in the form of loans and guarantees is available only for countries which have been approved eligible, as a rule on the basis of framework agreements and/or memoranda of understanding between NIB and the respective governments.

### 2.6.2 Eligibility of economic operators, goods and services

The Bank permits economic operators from all countries to offer and to be awarded contracts for works, goods, and services for Bank-financed projects that:

- have not been declared ineligible for award of NIB-financed contract in accordance with the policies and regulations of the Bank; and
- have the capability and resources to successfully perform the contract

For **public sector projects** it is required that the economic operators do not have conflict of interest in the procurement process resulting from: (i) family, business or other relation to the contracting entity or to an economic operator in another contract, (ii) being the economic operator in another contract in the same project, (iii) submission of more than one tender for the contract, or (iv) another type of conflicting interest;

Similarly, the goods, services and personnel provided in the contracts should be allowed to have their origin in any country.

Restrictions to eligibility due to country of origin may be acceptable to the Bank in specific cases such as: (i) joint co-financing with a partner who has such restrictions, (ii) prohibition based on decision of the United Nations Security Council or, (iii) national restrictive legislation acceptable to the Bank.

Borrowers should ensure that the participation of a body governed by public law as a tenderer in a procedure for the award of a public contract does not cause any distortion of competition in relation to private tenderers.

Contracts awarded in **private sector projects** should be negotiated on an arm's length basis and should be in the best financial interest of the project. Where the contracting entity or project promoter is related to an economic operator, the Bank may, at its discretions, require proof that the costs are in line with current market prices, and that the contract conditions are fair and reasonable.

## 2.7 Advance contracting

In some cases it may be advantageous for the Borrower to procure and even sign a contract before the related Bank financing has been accepted and signed. Borrowers undertake such advance contracting at their own risk, and any concurrence by the Bank with the procedures, documentation, or proposal for award does not commit the Bank to make financing available for the project in question. Before accepting financing for such contracts, the Bank may, at its discretion, satisfy itself through post review of the procurement documents, decisions and the contract that the procurement procedures have been consistent with the Bank's policies and rules and that the contract is acceptable to the Bank.

## 2.8 Roles of the Bank and the Borrower

Borrowers are fully responsible for implementing the project, in particular for all aspects of the procurement process, from drafting pre-selection and tender documents and awarding contracts through to implementing contracts, in accordance with the agreed procedures.

The rights and obligations of the Borrower vis-à-vis the tenderers for goods, works and services to be furnished for the project will be governed by the applicable legislation and the tender documents issued by the Borrower and not by these Guidelines or the loan agreement.

The Bank is not a party to the resulting contracts but the Bank may need to verify whether or not the conditions attached to its financing are met. The Bank does not usually participate in procurement process through prior review of documents, procurement decisions and contracts and does not provide 'No Objections' to shortlists, documents, reports, decisions or contracts. The Bank may, however, at its discretion from time to time, choose to participate in this way in the procurement process. As part of its standard monitoring and oversight, or resulting from a complaint or finding, the Bank may require post review of procurement procedures, documents and decisions to be carried out to verify that agreed and sound procurement practices have been followed and that the resulting contracts are acceptable to the Bank.

The Borrowers should note that when the Bank does not carry out prior review of the procurement documents and decisions, higher requirements are set for the Borrower's procurement skills and capabilities compared to a situation where the Bank's interim reviews would guide the process.

In the contracts or disputes, the Bank shall not be named as an arbitrator or be asked to name an arbitrator.

## **2.9 Complaints**

In case of projects in the EU/EEA, it is the role of the relevant national and EU authorities to handle any procurement complaints against the Borrower. Outside the EU/EEA, the relevant national legislation shall apply and national authorities are to handle any procurement complaints against the Borrower. The Bank is not a party to such complaints. Nevertheless, the Bank has established its own complaints mechanism to deal with any complaints against the Bank in relation to its procurement related activities. Such complaint against the Bank shall be made in writing and be handled by an Inspection Panel established by the Bank.

## **2.10 Ethical conduct and prohibited practices**

The Bank requires that Borrowers, as well as economic operators under Bank-financed contracts, observe the highest standard of transparency and integrity during the procurement, contracting and implementation of such projects and contracts and, are not and have not been involved in prohibited practices.

Prohibited practices are defined in the loan agreement and in various policies, declarations, resolutions and guidelines of the Bank available at NIB website ([www.nib.int](http://www.nib.int)). Prohibited practices include i.a. fraudulent and corrupt practices, money laundering and financing of terrorist activities.

The Bank reserves the right to take all appropriate actions in order to enforce these policies and requires that the Borrowers shall cooperate with the Bank in any investigation into an alleged prohibited practice.

In case of any occurrence, or suspected occurrence, of a prohibited practice in the procurement, the Bank may suspend financing for a project or a contract until the issue has been investigated and concluded. The Bank may cancel all or part of the financing allocated for a project or a contract if it at any time determines that there is sufficient proof that an economic operator or the Borrower or its representative, has engaged in any prohibited practice during the procurement process, the conclusion of the contract or the implementation of the project.

## **2.11 Misprocurement**

If the Bank at any time concludes that a contract has not been awarded in accordance with the agreed provisions of the loan agreement and these Guidelines or involves the engagement of a

representative of the Borrower, an economic operator or any representative of any of them or any other contracting party in prohibited practice, the Bank may declare misprocurement and cancel that portion of the loan allocated to the contract that has been misprocured. The Bank may, in addition, exercise other remedies provided for under the loan agreement.

### **3. Projects within the EU and EEA**

#### **3.1 Projects/Contracts to which EU Directives apply**

Within the Bank's member countries and EU member countries, procurement is covered by national legislation deriving from European Community Law, in particular EU Directives. National legislation constitutes the legal framework for procurement in these countries. It is the role of the relevant national and/or EU authorities to ensure that procurement is carried out in line with that legal framework. There is no need for any further guidelines from the Bank.

For those Borrowers who fall under the EU Directives on procurement, whether they are public or private institutions or companies, the Bank will:

- require the Borrower, at the project appraisal stage, to ensure that the applicable procurement Directives concerning competitive tendering, on the basis of fair and non-discriminatory terms are complied with under the project; one essential step is the publication of a Procurement Notice in the OJEU when this is required; and
- take further steps during project implementation, to the extent necessary, to control compliance with applicable procurement Directives in order to ensure the rational employment of the Bank's funds, protect the soundness of the project and reduce the risks involved.

#### **3.2 Projects/Contracts to which EU Directives do not apply (including private sector projects)**

In all its operations, the Bank aims at the effective use of its resources and ensuring that the criteria of economy and efficiency are applied consistently.

In their procurement, Borrowers (most frequently private) operating in sectors where EU Directives do not apply can satisfy these criteria by following established commercial practices other than open or restricted procedures. Whenever appropriate, the Bank encourages the Borrowers, including its private sector Borrowers, to use competitive tendering methods particularly for large contracts.

In any event, the Bank is entitled to satisfy itself that Borrowers follow suitable procurement procedures, ensuring an appropriate selection of works, goods and services offered at competitive prices and in a timely manner. Contracts awarded by Borrowers must be negotiated impartially and accord with the project's best interests.

### **4. Projects outside the EU and EEA**

#### **4.1 Applicable procurement procedures**

##### **4.1.1 General**

The procurement procedures applicable for Bank-financed projects/contracts outside the member countries of the Bank and EU comprise International Procurement Procedures deriving from the EU Directives and/or the procedures of international financing institutions and, National Procurement Procedures deriving from national legislation of the project country.

#### 4.1.2 International procurement procedures

- **Open procedures** (or International Competitive Bidding (ICB) without prequalification) allow all interested economic operators to submit tenders. They involve international notification; clear and comprehensive tender documents; and fair and transparent tendering, evaluation and award practices.
- **Restricted procedures** (or ICB with prequalification or Limited Competitive Bidding or Request for Proposals with international shortlist of firms) provide that only those candidates invited by the Borrower may submit tenders. The selection of candidates usually follows an international notification and a formal pre-qualification exercise. Restricted procedures are similar to open procedures regarding the tendering stage.
- **Competitive dialogue** is a procedure which may be used for particularly complex contracts. It is published internationally. The Borrower opens a dialogue with selected candidates in order to define the means best suited to satisfy his needs.
- **Negotiated procedures** (including also International Shopping and Direct Contracting) allow Borrowers to consult candidates of their choice and negotiate the terms of the contract with one or more of them.

#### 4.1.3 National procurement procedures

For small contracts and particular works, other procedures may be more appropriate:

- **National competitive bidding** (including also Request for Proposals with shortlist of national firms only) usually involves publication in the local press and follows the normal procedures of the country of the Borrower/project. Tender documents are normally in the official language(s) of the country; and the national currency is generally used for the purposes of tendering and payments.
- **National Shopping** and **direct contracting** allow Borrowers to negotiate prices and other conditions with several local contractors or suppliers or only one of them.
- **Force account** (also called **direct labour**) may be the only practicable method for constructing some kinds of works, or providing the appropriate in-house services.

The threshold below which **national procurement procedures** can be used depend on the nature of the project, the experience of the Borrower and local conditions. The thresholds used should be in line with the country-specific thresholds applied by the World Bank.

<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,contentMDK:21038090~menuPK:2926825~pagePK:84269~piPK:84286~theSitePK:84266~isCURL:Y,00.html>

#### 4.2 Selection of procurement procedures

##### 4.2.1 Public sector projects

In order to ensure economy, efficiency, non-discrimination and transparency, the Bank requires that, in all appropriate cases, contracts in public sector projects are procured following open or restricted procedures. Exceptions can be warranted on the grounds of special circumstances, relating to the nature of the project or the Borrower, the estimated value of the contract, or other factors peculiar to the context of the project. In all cases, the procedures adopted must be fully justified by the Borrower, acceptable to the Bank, and in the best interest of the project.

No proposed contract should be split up with the intention of evading the application of international competitive procedures. In particular, splitting the works in several small contracts with the only purpose of favouring domestic contractors is not acceptable to the Bank, unless the

Borrower can prove that this would be more advantageous for the objectives of economy and efficiency of project implementation.

To these ends, the Bank requires Borrowers operating in the public sector to adopt appropriate procurement procedures consistent with the following principles:

- **Open procedures** are the most common form of procurement for public contracts for works, goods and services (other than consultancy services).
- **Restricted procedures** are recommended for large or complex public contracts warranting pre-qualification of contractors or suppliers, and for international procurement of consultancy services contract with estimated value (excluding VAT) of 200,000 euro or more.
- **Competitive dialogue** may be used for particularly complex contracts.
- **Negotiated procedures** may be used in exceptional cases for works, goods and services and when a international consultancy services contract has estimated value (excluding VAT) of less than 200,000 euro.
- **National competitive bidding** may be appropriate for contracts, which, by their size, nature or scope, are unlikely to attract foreign competition or, for consultancy services contracts that are below the threshold for international shortlist of consultants.
- **Shopping** and **Direct contracting** may be appropriate for procuring small value standard goods and if only one contractor or supplier can fulfil a contract in a satisfactory manner and at the most advantageous cost.

The Bank does not accept conditions of tendering or contracting which require mandatory joint ventures or other forms of mandatory association between firms including mandatory involvement of local firms. If eligible foreign firms wish to participate in national procedures, they must be allowed to do so.

#### **4.2.2 Private sector projects**

Borrowers operating in the private sector normally satisfy the objectives of economy and efficiency by following established commercial practices. Thus the Bank does not require that they follow the formal procurement procedures described above. For example, the less rigid, less costly and faster negotiated procedures (generally consisting of an international enquiry among a short-list of suppliers followed by negotiations) often prove to be sufficient.

Nevertheless, whenever appropriate, the Bank encourages such Borrowers to publish a tender notice widely and adopt competitive tendering methods, particularly for large contracts. In such cases it may be necessary to introduce appropriate safeguards to ensure that the legitimate confidentiality interests of the Borrower and other commercial contracting parties are fully respected in the procurement process.

In any event, the Bank is entitled to satisfy itself that Borrowers follow suitable procurement procedures, ensuring an appropriate selection of works, goods and services offered at competitive prices and in a timely manner. Contracts awarded by Borrowers must be negotiated impartially and accord with the project's best interests.

## **5. Open procedure and Restricted procedure for public contracts outside EU/EEA**

### **5.1 General aspects**

The normal process for public sector procurement involves the following steps:

- a) notification of opportunities for tendering;

- b) prequalification where appropriate;
- c) invitation to tender and issuance of tender documents;
- d) receipt of tenders, evaluation of tenders and contract award; and
- e) contract administration.

The extent of the process and specific procedures to be followed for each step will depend on the method of tendering that is used.

When following open or restricted procedures, Borrowers should take note of the provisions set out below.

## **5.2 Notices**

Notices shall be published on the Borrower's own website and the official government procurement portal, where practical, or in a newspaper with wide circulation in the Borrower's country or in official gazettes or international trade publications, as appropriate.

Early in the project cycle, the Borrower shall issue a General Procurement Notice (GPN) that advises the business community about the coming business opportunities.

Prequalification and tender notices (Invitation to submit expressions of interest for prequalification and Invitation to Tender or Specific Procurement Notice) for individual contracts shall follow the GPN and be advertised as soon as the related documents are ready. Notices shall also be sent to potential tenderers who have expressed interest in response to the General Procurement Notice.

Tender and pre-qualification notices, invitations to tender and/or tender documents shall provide sufficient time for the potential tenderers to respond to the invitation and prepare and submit their documents/tenders.

## **5.3 Pre-qualification**

In restricted procedures, the Borrower selects those candidates that will be invited to submit tenders. The pre-qualification factors should be based on the capability and resources of the prospective tenderers to perform the particular contract. Later at the tender evaluation stage, prequalified tenderers should usually not be rejected due to insufficient capability and resources unless there have been real changes in their qualifications during the period from pre-selection to tender evaluation.

## **5.4 Tender documents**

Tender documents are the basis for informing potential tenderers of the requirements to supply specific goods and services or to construct works, so they must furnish all information necessary to permit tenderers to submit responsive tenders. Tender documents shall be drafted so as to permit and encourage international competition. They shall clearly define the works, goods or services required, the rights and obligations of the Borrower and of economic operators, the conditions to be met in order for a tender to be declared responsive, and the requirements of the capabilities and resources of the tenderer to be qualified for award of the contract.

Usually the tender documents should include

- Invitation to Tender;
- Instructions to Tenderers (including evaluation and qualification criteria);
- Forms of Tender and Tender Security;
- General Conditions of Contract;
- Special Conditions of Contract;
- Forms of Contract Agreement, Advance Payment Guarantee, Performance Security;

- Schedule of Requirements including, as applicable, Technical Specifications, Schedule of Activities, Bills of Quantities, Drawings, Scope of Services, Terms of Reference, etc.;

Borrowers may be allowed to use tender documents including conditions of contracts originating from their country's legislation, but they are encouraged to use, with necessary modifications, internationally recognised standard procurement documents such as those prepared by the European Bank for Reconstruction and Development, the World Bank, or FIDIC.

## **5.5 Language**

For international procurement procedures, the procurement notice, pre-qualification documents (if any), tender documents, the tender evaluation report and the contract documents should be prepared in English or another major international language. For national procurement procedures, the documents may be prepared in the national language(s) of the Borrower/project country or a language used nation-wide in the Borrower's country for commercial transactions.

In all cases, all documents required by the Bank for review purposes shall be submitted to the Bank in English. In the event of a procurement complaint, the Bank may require certified translations to English of the relevant documents.

## **5.6 Standards and specifications**

Borrowers shall use international standards and specifications wherever these are available and appropriate. If particular national or other standards are used, the tender documents shall state that other standards that ensure equivalent or higher quality or performance than the specified standard would also be accepted.

The use of brand names or other designations that would discriminate among suppliers should be avoided. If they are necessary to clarify the nature of the product requirements, the tender documents shall state that products of equal or higher quality would be acceptable.

## **5.7 Tender prices**

When a Borrower calls a tender for the supply of goods, tender prices should be requested on the basis of appropriate and internationally recognised delivery terms such as relevant Incoterms. Borrowers should ensure that the evaluated prices have the same basis regarding the total costs to the purchaser including also, as applicable, the cost of freight, transport, insurance, clearing, forwarding, import duties, taxes, installation, training, etc.

The tender prices for works and services contracts are usually requested inclusive of all duties, taxes and other levies, applicable at a set date prior to submission of tenders.

## **5.8 Currency**

Borrowers may wish to restrict the tender currency to a specific, internationally tradable currency or allow tendering in the currency or currencies selected by the tenderer. Borrowers may also require tenderers to state the local cost portion of a tender in the local currency.

Payment under the contract will be made in the currency or currencies of the tender unless there are exceptional reasons acceptable to the Bank to use other currency or currencies.

## **5.9 Local preference**

As a general rule, the Bank does not allow preference to be given to tenders for works, goods or services originating from the beneficiary country.

## 5.10 Tender evaluation criteria

The evaluation and comparison/selection criteria must be indicated in the tender notice and quantified in the tender documents. The evaluation criteria specified in the tender documents must be applied in the evaluation of tenders in whole, without omission or addition. In case no criterion is indicated in the tender documents, the lowest price criteria only will apply.

The comparison of tenders and selection of the winning tender for works, goods and services other than consultancy services may be based on:

- the lowest priced of the compliant and technically responsive tenders; or
- the economically most advantageous of the compliant and technically responsive tenders, applying a number of criteria adapted to the contract in question: e.g. price, payment terms and financing, construction or delivery period, technical performance, technical expertise and capability of the tenderer, technical compatibility with other equipment, availability of service and spare parts, operating costs, maintenance costs, etc.

Financing proposals can only be considered if the tender documents specifically request such proposals and include a clear methodology to evaluate them. As financial cost for the comparison of tenders, the method will usually consist of calculating the present cost of the flow of expenditures incurred by each financing proposal. In addition, the Bank recommends that tenderers are required to make also an alternative proposal without financing.

The comparison of tenders and selection of the winning tender for consultancy services shall emphasize the need for high-quality services and be usually based on: the most economically advantageous tender, applying criteria related to technical qualities of the tenderer/tender and, to the tender price<sup>3</sup>.

## 5.11 Opening of tenders

In public sector projects, tenders and associated documents are to be opened in public, in the presence of representatives of tenderers who wish to attend, as soon as practicable after the deadline for submission of tenders. Tenders arriving after the deadline are not to be opened but are rejected and returned unopened to the tenderers.

At the opening of tenders for works, goods and services (other than consultancy services), at least the following must be read out aloud and recorded in the minutes of the tender opening: the names of the tenderers; the amount of each tender including special conditions, rebates and variants if any; and withdrawals, alterations and substitutions of tenders received before the deadline.

For consultancy services, only technical tenders are opened at the tender opening. The tender price envelopes of best ranked firms are opened after the technical tenders have been evaluated.

## 5.12 Evaluation of tenders and qualification of tenderers

Tenders for works, goods and services (other than consultancy services) are evaluated in respect of their administrative and technical compliance and responsiveness while the tenderers are evaluated in respect of their eligibility, capability and resources, using the requirements, criteria and conditions set out in the tender documents. Non-compliant and non-responsive tenders and tenders from ineligible and unqualified tenderers are rejected and not passed to price comparison. Finally, compliant and responsive tenders from eligible and qualified tenderers are subjected to correction of arithmetic errors and to lowest price or best value comparison of tender prices, resulting to recommendation for the award of the contract to the winning tenderer.

Unsolicited financing offers should not be considered in the evaluation of tenders.

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<sup>3</sup> Quality- and Cost-Based Selection (QCBS) method in the World Bank Guidelines

The Borrower shall prepare a tender evaluation report describing all the relevant steps and findings of the evaluation and comparison of tenders.

In case of unsatisfactory response from all tenderers, the Borrower should consult the Bank before rejecting all tenders and moving to re-bidding.

### **5.13 Award of contract**

After having concluded the evaluation, the Borrower shall notify the winning tenderer and the other tenderers and shall proceed to finalisation of contract documents and signing of the contract. Immediately after the signature of the contract, the Borrower is encouraged to publish an award notice in the same media where the tender notice was published.

### **5.14 Complaints**

The Borrower shall inform the Bank of any complaints received by him or, to his knowledge, by relevant authorities in the Borrower's country, concerning procurement under his Bank-financed project and of the progress of handling such complaints.

## **6. Bank review (for both public and private sector projects)**

The Bank does not, except as stated above, carry out prior review of procurement documents, decisions and contracts. Neither does the Bank routinely post review procurements carried out by the Borrowers.

Therefore, the Borrowers need not submit to the Bank any procurement documents or contracts unless requested by the Bank.

However, in any project the Bank may, at any time during or after the procurement process, and without specifying the reason, request the Borrower to submit for the review of the Bank any procurement related document or the contract and the Borrower shall respond to such request without delay. Therefore, the Borrowers need to keep comprehensive records and archives of all documents related to procurement of contracts financed by the Bank.