



Department of Tourism,
Government of Uttar Pradesh

Uttar Pradesh

Pro-poor Tourism Development Project

Project Procurement Manual

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Preface

This Project Procurement Manual (PPM) for the Uttar Pradesh Pro-Poor Tourism Development Project (the project) describes the procedures to be followed by various project agencies during the project implementation, as well as the disclosure and reporting requirements.

The procedures described in this Manual are based on the requirements of the applicable legislation governing the project and various guidelines issued by the World Bank for projects it finances. This Manual complements and must be used along with the Project Operational Manual and the Project Financial Management Manual.

This Manual guides officials at the state Department of Tourism, GouP, the State Project Coordination Unit, the implementing entities, the Technical Support Units and any other concerned agency or individual in performing their procurement functions under the project.

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Abbreviations

ADA	Agra Development Authority
ACPD	Additional Chief Project Director
ASCI	Administrative Staff College of India
BER	Bid Evaluation Report
CAPART	Council for the Advancement of Peoples Action & Rural Technology
CPD	Chief Project Director
CQS	Selection Based on Consultants' Qualifications
CSWB	Central Social and Welfare Board
CV	Curriculum Vitae
DA	Development Authority
DC	Direct Contracting
DGS&D	Directorate General of Supplies and Disposals
DoT	Department of Tourism
DPR	Detailed Project Report
EC	Empowered Committee
EOI	Expression of Interest
FA	Framework Agreement
FBS	Selection under a Fixed Budget
GCC	General Conditions of Contract
GOI	Government of India
GoUP	Government of Uttar Pradesh
Govt.	Government
IBRD	International Bank for Reconstruction and Development
ICB	International Competitive Bidding
IDA	International Development Association
IE	Implementing Entity(ies)
IFB	Invitation for Bid
INR	Indian Rupees
ITB	Instructions to Bidders
LCS	Least Cost Selection
LD	Liquidated Damages
LIB	Limited International Bidding
LOI	Letter of Invitation
MIS	Management Information System
MVDA	Mathura - Vrindavan Development Authority
NCB	National Competitive Bidding

NGO	Non-Governmental Organizations
NIFM	National Institute of Financial Management
NOC	No Objection Certificate
PPR	Procurement Post Review
PD	Project Director
PDO	Project Development Objectives
PFM	Project Financial Management Manual
POM	Project Operational Manual
PPM	Project Procurement Manual
QBS	Quality Based Selection
QCBS	Quality and Cost based Selection
RFP	Request for Proposal
RFQ	Request for Quotations
RTI	Right to Information
SBD	Standard Bidding Documents
SC	Steering Committee
SCC	Special Conditions of Contract
SEPA	Sistema de Ejecución de Planes de Adquisiciones
SOE	Statement of Expenditure
SPCU	State Project Coordination Unit
SPN	Special Procurement Notice
SSS	Single Source Selection
TOR	Terms of Reference
TSU	Technical Support Unit
UN	United Nations
UNDB	United Nations Development Business
UP	Uttar Pradesh
UPPPTDP	Uttar Pradesh Pro-poor Tourism Development Project
UPTDC	Uttar Pradesh Tourism Development Corporation Limited
US	United States
WB	World Bank
WBR	World Bank Reference

1. Introduction

About this Manual

This **Project Procurement Manual (PPM)** for the Uttar Pradesh Pro-poor Tourism Development Project (the project) guides the state Department of Tourism (DoT), the main implementing agency, and other implementing entities, partners and concerned government agencies in following one common set of procedures for all procurements under the project. The Manual focuses on the procurement arrangements, institutional and individual responsibilities, procurement documentation, reporting and disclosure requirements among other key aspects.

This Manual is part of and complements the set of manuals prepared for the project including the **Project Operational Manual (POM)** and **the Project Financial Management Manual (PFM)**. Specific aspects related to project operations and financial management, discussed briefly in this Manual, are covered in greater detail in the POM and PFM.

Ultimately, it is expected that this Manual will contribute to ensure that the project strives for positive development outcomes in the activities and investments it supports, through the application of the highest standards, technical excellence, and transparency during project implementation.

Adoption and Amendment

This Manual becomes effective from the time it was originally reviewed and approved by the World Bank, dated November 11, 2015. It was last updated in September 2017.

As project implementation progresses, circumstances may arise requiring changes to certain sections of this Manual. Minor changes may be carried with the approval of the Chief Project Director (CPD) or his/her designee. Major proposed modifications will be placed before the Steering Committee (SC) by the CPD or his/her designee using Form 1 – Format for proposing changes to manuals (see Annex 2 of the POM). All modifications will be made after obtaining prior written consent from the Bank.

The current updated version has been reviewed and approved by the World Bank, dated September 25, 2017.

Purpose of the Procurement Manual

The purpose of the Manual is to assist the implementing agency and entities carry out procurement in accordance with the procurement procedures applicable to the project, ensure consistency in their application, and make all agencies involved in project implementation fully conversant with the procurement policies, procedures, documentation required, records to be maintained, and other key related aspects.

The Manual describes the steps involved in the procurement process, documents to be

prepared, guidance for preparation of bidding documents, requests for expressions of interest, request for proposals, short listing reports, evaluation reports and others. Review procedures and risk mitigation measures applicable to the project have been covered to help maintain consistency and transparency in actual procurement, avoid delays, and improve quality of procurement.

Adherence to agreed procurement policies and procedures is essential, as otherwise the project runs the risk of:

- (a) Delays in implementation due to delayed procurement;
- (b) Fiduciary non-compliance;
- (c) Inconsistency in procurement activities;
- (d) Possibility of a declaration of 'misprocurement'.

In case of any ambiguity or discrepancy between the provisions of this Manual, the World Bank Guidelines, and the project's legal agreements, the provisions of the Projects Legal Agreement, the World Bank Guidelines and the Manual will prevail and in that order.

Procurement Policy

The aim of procurement policy is to obtain the right quality of goods, works, non-consulting and consulting services at reasonable and competitive prices, giving equal opportunities to all subject to laid-down specifications, qualification requirements and various provisions of the bid/RFP document. The following considerations generally guide the Bank's requirements:

- (a) the need for economy and efficiency in the procurement of goods, works and non-consulting and consulting services under the project;
- (b) giving equal opportunity to all eligible bidders/consultants to compete in providing goods, works and non-consulting and consulting services;
- (c) encouraging development of domestic contracting and manufacturing industries and national consultants; and
- (d) the importance of transparency in the procurement process.

About the Project

The Uttar Pradesh Pro-Poor Tourism Development Project was prepared and is being implemented by the DoT, GoUP, with advisory, technical and financial assistance from the Bank. The project aims to unlock the potential of UP's unique heritage through pro-poor tourism development for inclusive growth and poverty reduction in asset-rich, but low-income areas in the state.

The Project Development Objective is to increase tourism-related benefits for local communities in the project target areas through:

- a) Providing basic tourist infrastructure and facilities to enhance tourists' experience and thereby extend their stay and increase their expenditure in the selected destinations, while also enhancing living conditions for local communities;

- b) Increasing the proportion of tourist expenditure that benefits the local economy;
- c) Enhancing tourism governance and systems in the selected destinations and at state level;
- d) Supporting the participation of local communities and entrepreneurs in the tourism value chain.

The project has been informed by the lessons learned from the World Bank's accumulated experience in urban revitalization, cultural heritage and tourism development, as well as by thorough analyses and studies of the target areas, destinations, assets and people the project aims to support. The analyses and studies include (i) complete profiles of all target areas, (ii) a GIS-based inventory of their natural and cultural assets, (iii) a value chain analysis of local enterprises and tourism economy, (iv) a sample survey of street vending in Agra, and (v) mapping and assessments of the creative economy in all target areas.

In this initial phase, the project extends to two target areas in UP, important for the state's tourism sector, namely, Agra and the Braj region. Within these target areas, the project covers five destinations, namely:

- Agra
- Mathura, Vrindavan, Barsana, and Govardhan in the Braj region.

In a potential follow up project phase, project activities may be extended to secondary and tertiary attractions within Agra and the larger parikrama route in the Braj region, as well as other key destinations in the state along the Buddhist Circuit.

Table 1 of the POM provides additional important information about the project. Details of the project components and subprojects identified under each component are discussed in **Chapter 5 of the POM**.

2. General Considerations

2.1 Procurement Provisions in the Legal Agreement of the Project

Section III of Schedule 2 of the Loan Agreement details the following procurement procedures to be followed for the project.

All goods, works and non-consulting services will be procured in accordance with the requirements set forth or referred to in Section I of the **“Guidelines for Procurement of Goods, Works and Non-Consultant Services under IBRD Loans and IDA Credits and Grants by World Bank Borrowers”** published by the World Bank in January 2011, revised in July 2014 (**The Procurement Guidelines**)¹ and the provisions contained in Section III of the Loan Agreement.

All consultants’ services will be procured in accordance with the requirements set forth or referred to in Section I and IV of **“Selection and Employment of Consultants under IBRD Loans and IDA Credits and Grants by World Bank Borrowers”** published by the World Bank in January 2011, revised July 2014 (**The Consultant Guidelines**)² and the provisions contained in Section III of the Loan Agreement.

The purpose of the Manual is to inform the project implementing agency and entities (a) of the applicable arrangements for procurement of goods, works and non-consulting and consulting services required for the project; and (b) of the rights and obligations of the project implementing agency and Entities including DoT/SPCU, TSUs, Development Authorities etc., the providers of goods, works and non-consulting and consulting services for the project, and the Bank.

2.2 Responsibility for Procurement

The responsibility for the implementation of the project and therefore for the award, administration of contracts, and payments (works, goods, non-consulting and consulting services) under it rests with the state Department of Tourism (DoT), GoUP. The DoT is legally responsible for the procurement. The contract is between the DoT and the firm, and the Bank is not a party to the contract. The Bank for its part, is required by its Articles of Agreement to “ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations”, and it has established detailed procedures for this purpose. The Bank accordingly reviews the procurement procedures, documents, evaluations, award recommendations, awards and other documents to ensure that the process is carried out in accordance with agreed procedures.

¹ These guidelines on procurement of goods, works and non-consulting services are referred to as “Procurement Guidelines” in the Manual.

² These guidelines on selection and employment of consultants are referred to as “Consultant Guidelines” in this Manual.

2.3 Fraud and Corruption

Procurements under the project will be as per the following provisions related to Fraud and Corruption:

- (a) All procurements of goods, works and non-consulting services are subject to the provisions of Fraud and Corruption as defined in paragraph 1.16 of procurement guidelines.
- (b) All procurements of consulting services are subject to the provisions of Fraud and Corruption as defined in paragraph 1.17 of consultant guidelines.
- (c) The project is also subject to the Bank's Anti-Corruption Guidelines, dated October 15, 2006 and revised in January 2011.

The guidelines define the various acts of fraud and corruption like “corrupt practice”, “fraudulent practice”, “collusive practice”, “coercive practice”, and “obstructive practice” and the resultant actions that may be taken thereof by the Bank. These actions include some or more of (i) rejection of the proposal for award; (ii) declaration of misprocurement and cancellation of the portion of the loan; (iii) sanction of firms or individuals depending on the circumstances of the case.

The guidelines also require that the Bank will have the right to require that a provision be included in bidding/RFP documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, consultants, and their agents, personnel, sub-consultants, sub-contractors, or service providers to permit the Bank to inspect their accounts and records and other documents relating to the bid/ proposal submission and contract performance and to have them audited by auditors appointed by the Bank.

With the specific agreement of the Bank, the DoT/SPCU may introduce, into bid forms/RFP, an undertaking of the bidder/consultant to observe, in competing for and executing a contract, the country's laws against fraud and corruption (including bribery), as listed in the bidding documents/RFP. The Bank will accept the introduction of such undertaking at the request of the Borrowing country, provided the arrangements governing such undertaking are satisfactory to the Bank.

Detailed provisions of these clauses may be seen in the procurement and consultant guidelines.

2.4 Eligibility

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

In connection with any contract to be financed in whole or in part from a Bank loan, the Bank does not permit the project authorities to deny participation in a procurement process or award to a firm/ consultant for reasons unrelated to: (a) its capability and resources to successfully perform the contract; or (b) the conflict of interest situations

covered in the following paragraph hereunder.

As exceptions to the foregoing paragraphs, the following apply in case of (i) goods, works and non-consulting services; and (ii) consulting services:

2.4.1 Goods, Works, and Non-Consulting services

- (a) Firms of a country or goods manufactured in a country may be excluded if, (i) as a matter of law or official regulation, India prohibits commercial relations with that country (subject to Bank's concurrence), or (ii) by an act of compliance with a decision of the UN Security Council;
- (b) Government owned enterprises or institutions of India may participate in the project procurement 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 DoT or the project implementing entity(ies). To be eligible the institution will establish that it (i) is a legal entity separate from the government; (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.
- (c) A firm or an individual sanctioned by the Bank in accordance with these Guidelines (Procurement Guidelines) or in accordance with the Bank Group anti-corruption policies and sanctions.

2.4.2 Consulting Services

- (a) Consultants may be excluded if: (i) as a matter of law or official regulations, India prohibits commercial relations with the consultant's country (subject to Bank's concurrence); or (ii) by an act of compliance with a decision of the United Nations Security Council.
- (b) Government-owned enterprises or institutions of India may participate in project procurement only if they fulfill the provisions as at 2.3.1 (b) above.
- (c) As an exception to (b), when the services of government-owned universities or research centers or other institutions in India are of unique and exceptional nature including because of the absence of a suitable private sector alternative, 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, university professors or scientists from research institutes can be contracted individually under Bank financing.
- (d) Government officials and civil servants of India may only be hired under consulting contracts in the project, either as individuals or as members of the team of experts proposed by a consulting firm, provided that such hiring

does not conflict with any employment or other laws or regulations, or policies of the government of India, and if they (i) are on leave of absence without pay, or have resigned or retired; (ii) are not being hired by the agency they were working for before going on leave of absence without pay, resigning, or retiring; and (iii) their hiring would not create a conflict of interest.

- (e) A firm or an individual sanctioned by the Bank in accordance with these Guidelines (Consultant Guidelines) or in accordance with the World Bank Group anti-corruption policies and sanctions.

2.5 Conflict of Interest

2.5.1 Goods, Works, and Non-Consulting services

Bank policy requires that a firm participating in a procurement process under Bank financed projects will not have a conflict of interest. Any firm found to have a conflict of interest will be ineligible for award of the contract. Conditions when a firm will be considered to have a conflict of interest in a procurement process are detailed in paragraph 1.6, and 1.7 of the Procurement Guidelines. The main conditions are briefly given hereunder:

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

- (a) Such firm is providing goods, works or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of a project that it provided except under turnkey or design and built contract; or
- (b) Such firm submits more than one bid, either individually or as a joint venture partner in another bid except for permitted alternative bids. This will result in disqualification of all bids in which the bidder is involved. This does not limit the inclusion of a firm as sub-contractor in more than one bid; or
- (c) Such firm (including its personnel) has a close business or family relationship with a professional staff of the project implementing agency who are or will be involved with the procurement or contract implementation;
- (d) Such firm does not comply with any other conflict of interest situation as specified in the Bank's SBD.

2.5.2 Consulting Services

Bank policy requires that consultants provide professional, objective and impartial advice and at all times hold the DoT/SPCU and the project implementing entity(ies)' interests paramount, without any consideration for future work, and in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants will not be hired for any assignment that would be in conflict with their prior or current obligations to other DoT/SPCU and the project implementing entity(ies) or that may place them in a position of being unable to carry out the assignment in the best interest of the DoT. The circumstances under which they cannot be hired is detailed in paragraph 1.9 of the Consultant Guidelines. The main circumstances are briefly given hereunder:

- (a) Conflict between consulting activities and procurement of goods, works or non-consulting services e.g. a firm hired to provide consulting services for the preparation or implementation of a project, will be disqualified from subsequently providing goods, works, or services resulting from those consulting services. except under turnkey or design build contract, and vice versa;
- (b) Conflict among consulting assignments e.g. consultants assisting the DoT/SPCU and the project implementing entity(ies) in the privatization of public assets will neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment will not be hired for the assignment in question;
- (c) Relationship with the DoT/SPCU and the project implementing entity(ies) staff. Consultants that have a close business or family relationship with a professional staff of the DoT/SPCU and the project implementing entity(ies) who are involved in (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract, or (iii) the supervision of such contract may not be awarded a contract, unless the conflict has been resolved in an acceptable manner; and
- (d) A Consultant will submit only one proposal either individually or as a joint venture partner in another proposal. This will result in disqualification of all proposals in which the consultant is involved. This does not limit inclusion of a consultant as a sub-consultant or an individual to participate as a team member in more than one proposal.

2.6 Misprocurement

The Bank does not finance expenditures under a contract for goods, works, non-consulting services or consulting services if the Bank concludes that such contract: (a) has not been awarded in accordance with the agreed provisions in the Financing Agreement and as further elaborated in the Procurement Plan to which the Bank provided no-objection; (b) could not be awarded to the bidder/consultant otherwise determined successful due to willful dilatory conduct or other actions of the DoT/SPCU and the project implementing entity(ies) resulting in unjustifiable delays, the successful bid/proposal being no longer available, or wrongful rejection of any bid/proposal; or (c) involves the engagement of a representative of the DoT/SPCU and the project implementing entity(ies), in fraud and corruption.

In such cases, whether under prior or post review, the Bank may declare misprocurement, and may cancel that portion of the loan allocated to the goods, works, non-consulting or consulting services that have been misprocured. The Bank may in addition, exercise other remedies provided for under the Financing 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 (a) the no-objection was issued on the basis of incomplete, inaccurate, or misleading information furnished by the DoT/SPCU and the project implementing entity(ies); or (b) the terms of the contract had been substantially modified without Bank’s no-objection; or (c) if it determines at any time that representatives of the DoT/SPCU and the project implementing entity(ies) were

engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the contract in question, without the DoT/SPCU and the project implementing entity(ies) having taken timely and appropriate action satisfactory to the Bank to address such practices.

2.7 Language

All procurement documents including RFPs, bidding documents, proposals, and contracts under the project will be in English.

2.8 Frequency of Supervision

The Bank project team will conduct implementation support missions at least once in six months. The frequency of missions may be increased or decreased based on the procurement performance of the project.

2.9 Operating Cost

Operating Cost means incremental operating costs incurred on account of the implementation and management of the activities carried out under the project. Operational expenses (incremental costs), excluding salaries of civil servants, to be financed by the project may be incurred or contracts procured using the Implementing Agency's (Department of Tourism) and the implementing entities' (Development Authorities) administrative procedures, to the extent that such expenses are eligible under the project.

3. Procurement Implementation Arrangements

3.1 Project Implementation and Procurement Arrangements

3.1.1 Institutional and Implementation Arrangements

The DoT is the core implementing agency of the project through a State Project Coordination Unit (SPCU). Implementation at the destination level is the responsibility of the Development Authorities – Agra Development Authority (ADA) and Mathura-Vrindavan Development Authority (MVDA), known as the implementing entities (IEs), supported by Technical Support Units (TSUs) in selected destinations. Additional implementing entities may be identified as the project progresses.

An overview of the institutional powers and responsibilities for project implementation is shown in **Table 1**. The SPCU acts in a dual capacity in the project, one as the central coordinator/supervisory agency and other as an implementing entity for certain Packages. As an implementing entity, the SPCU also undertakes procurements particularly consultancy contracts under the project. Wherever the IE has been mentioned in this Manual, SPCU (in its capacity as an IE) is also included.

Table 1: Overview of institutional powers/responsibilities in project implementation³

Activity ⁴	Powers/Responsibility
DPR preparation	SPCU hires consultants who prepare DPRs with inputs from IEs
Bid document preparation	IE prepares and SPCU approves
Issue of Invitation for Bids (IFB)	SPCU issues IFB ⁵ , with IE as contract signatory and contract management authority
Pre-bid conference, minutes of meeting, addenda etc.	SPCU through a joint committee of SPCU and IE (Evaluation Committee ⁶)
Opening of bids, evaluation report ⁷ with recommendations	SPCU through a joint committee of SPCU and IE (Evaluation Committee)
Contract document preparation	SPCU/IE ⁸ prepares the contract ⁹ after approval of the evaluation report as per schedule of financial powers

³ Where the IE is other than a DA, the responsibilities of the DA apply to the Department/Institution identified as the IE.

⁴ In all applicable cases of prior review, the documents requiring the Bank's 'no objection' are sent to the Bank for clearance before proceeding to the next stage of the procurement.

⁵ IFB for goods, works and non-consulting services, and REOI & RFP for selection of consultants.

⁶ External experts may be co-opted or hired if required

⁷ BER in case of goods, works and non-consulting services, and TER & Combined Evaluation in case of selection of consultants.

⁸ SPCU acts as an implementing entity as well. There may be contracts that the SPCU would originate (for example DPR preparation, specific studies etc.).

⁹ In selection of consultants, this stage also includes negotiation of the contract.

Activity ⁴	Powers/Responsibility
Contract award	SPCU/IE ¹⁰ signs the contract
Contract management, quality management and payments	SPCU / IE supervises contract execution and also releases contractor payments. Third party monitoring if provided in the contract. SPCU monitors timely execution of contracts through IE.
Dispute resolution	SPCU supported by IE
Operation and Maintenance of assets created under the project	MoU between (i) SPCU and IE, or (ii) the institution to whom the asset is transferred, if different from IE.

Oversight is provided by the SC on policy, planning and macro issues relating to the project as well as award of contracts beyond the level of IEs and SPCU.

3.1.2 Procurement Arrangements in SPCU

The SPCU is responsible for managing all policy, capacity strengthening and other core activities financed under the project.

The project envisages procurement of a number of contracts for goods, works, non-consulting and consulting services. It is the responsibility of the SPCU to ensure that all procurement activities are performed as per agreed procedures and in a timely manner. Apart from procurement of contracts handled centrally by the SPCU, the SPCU must (a) provide guidance and hand holding support to the IEs, (b) monitor contracts, (c) implement agreed review procedures and audit activities, and (d) undertake procurement management functions such as bidder/consultant debriefing, budgeting, preparation and updating of procurement plan, procurement information, record maintenance, publication of awards, handling of complaints, contract disputes, references to the Bank, etc. Since this is the first time DoT is implementing an externally aided project, suitable qualified procurement experts and support staff are being hired and regularly trained to build necessary procurement capacity and mitigate fiduciary risks.

Procurement staff of IEs, and technical support staff from IEs, TSUs and SPCU will also be adequately trained in Bank procurement procedures for effective support to the procurement unit in SPCU.

3.1.3 Procurement Arrangements at IEs

The project envisages (i) procurement by the IEs, subject to procurement powers as delegated per Paragraphs 0 and 3.3.2, and (ii) support to the SPCU in procurement of contracts to be implemented by respective IEs. Most civil works will be implemented by existing local IEs in the selected destinations. IEs will function under the heads of the

¹⁰ SPCU acts as an implementing entity as well and originates contracts.

concerned DAs (Vice-Chairman), and will be supported by the Procurement Specialist(s) of the SPCU and, where required, procurement specialists at the TSUs.

The Divisional Commissioner being the monitoring authority for procurements under his/her jurisdiction (Agra and Braj region), will be supported by the IEs (through the DA Vice-Chairman) and by the project TSUs.

3.1.4 Procurement arrangements at TSUs

Technical Support Units are the SPCU's decentralized units in the field at selected destinations under the project. TSUs will provide technical guidance and support to the IEs, help the SPCU in monitoring contracts, and in procurement management functions including procurement planning, procurement management information, record maintenance, complaint handling, dispute resolution, reviews and audits, etc. If required, procurement expertise may be hired under the TSUs, and will be trained to build necessary procurement capacity and mitigate fiduciary risks.

3.1.5 Training

Constant support in terms of training and handholding has been provided throughout project preparation and will continue to be provided throughout implementation, as necessary. It is also recommended for the project (e.g., SPCU, TSUs) personnel to become familiar with the World Bank procurement procedures by attending trainings or workshops at the Administrative Staff College of India (ASCI) or National Institute of Financial Management (NIFM) or other suitable training institutes.

3.2 Procurement Sanction Powers

The following schedule of powers for procurement and related activities will apply at the SPCU and IE levels.

3.2.1 At the SPCU

The powers at the SPCU for sanction of project expenditure are given in **Table 2**.

Table 2: Project expenditure sanction powers at SPCU

Project Authority	Financial limits for sanction of Project expenditure
Chief Project Director	Full powers
Additional Chief Project Director	Up to Rs. 10 lakhs (or as the CPD if designated)
Project Director	Up to Rs. 2 lakhs

At the IEs

The powers at the IE level for sanction of project expenditure are given in **Table 3**.

Table 3: Project expenditure sanction powers at IE

Project Authority	Financial limits for sanction of Project expenditure
Vice-chairman of DA/Head of Office (in case of DoF and other departments)	Up to the Shopping limit (equivalent of US\$ 1 lakh, approx. Rs. 60 lakhs)

Conditions for expenditure sanction

- i. The expenditure proposed for sanction must be part of a package/contract in the approved Procurement Plan.
- ii. The expenditure proposed will have prior clearance/approval from the SPCU.

3.3 Contract Award Powers

Once the contracts come to the award stage, the powers will be as provided in **Table 4** and **Table 5**.

3.3.1 At the SPCU

The financial powers at the SPCU for acceptance of tenders/ proposals for contract award after completing the prescribed procurement process are given in **Table 4**.

Table 4: Approval for award of contract at SPCU*

Project Authority	Financial limits for approval of contract award
Chief Project Director	Full powers
Additional Chief Project Director	Up to Rs. 5 crore (or as the CPD if designated)
Project Director	Up to Rs. 1 crore with the concurrence of the CPD

* If a single bid is received, the tender accepting authority will be the next higher authority.

3.3.2 At the IEs

The financial powers at the IE level for acceptance of tenders/ proposals for approval of contract award after following the prescribed procurement process are given in **Table 5**.

Table 5: Approval for award of contract at IE

Project Authority	Financial limits for approval of contract award
Vice-chairman of DA/Head of Office (in case of DoF and other departments)	Up to the Shopping limit (equivalent of US\$ 1 lakh, approx. Rs. 60 lakhs)

Conditions for approval of contract award

- i. The expenditure for which the contract award is proposed must have been approved as prescribed.

3.4 Evaluation Committee

Evaluation Committees are established for review and evaluation of bids/proposals in

accordance with the provisions in the bidding/RFP documents and to recommend the winning supplier, contractor or service provider for award of contract.

The **Evaluation Committee** will comprise of the following members, their nominees or juniors. Standing Evaluation Committees for different values of procurement may be designated by the DA Vice Chairman/head of office in consultation with the Finance Controller and all will comprise of some or all of the members listed below: Each evaluation committee will comprise (a) at least 3 members representing procurement, finance and technical experts; (b) normally not more than 5 members including procurement, finance and technical experts; (c) all members of the Evaluation Committee will be involved in its deliberations and will sign the recommendations; and (d) any change in the members of the Evaluation Committee will be approved by the same authority that approved the initial constitution of the Committee.

The Evaluation Committee comprises inter alia of the following members:

- Finance Controller, DoT, Lucknow
- Project Director, SPCU, Lucknow
- Procurement Specialist, SPCU, Lucknow
- Financial Management Specialist, SPCU Lucknow
- Urban Development Planner/Heritage Conservation Specialist, SPCU Lucknow
- Any other specialists as per the assignment scope and complexity

The SPCU may invite and include experts and specialists from other departments, institutions or individuals to provide technical advice as considered necessary. In fulfilling its role of evaluation of bids/ proposals, the Evaluation Committee may also provide the SPCU with inputs on specifications and other terms and conditions of bidding for improving the procurement process.

3.5 Procurement Specialists

The project has hired a Procurement Specialist at the SPCU and, if required, will hire further procurement expertise at the TSUs, in addition to procurement support provided by the IEs. These Procurement Specialists constitute the full complement of the procurement team responsible for discharging the procurement function under the project.

The Procurement Specialist at the SPCU is primarily responsible for ensuring the compliance of all procurement activities under the project with the Bank's Procurement Guidelines, the procurement provisions of the Legal Agreement, and this Manual. He/she also ensures that internal control mechanisms are properly implemented and that the IEs also comply with the procurement arrangements agreed for the project. The Procurement Specialist at SPCU and any specialists at the TSUs will coordinate with each other for ensuring proper procurement processes.

Specific tasks of the Procurement Specialist at the SPCU include¹¹:

- Develop Procurement Plans and update them as necessary.

¹¹ See also Annex 4 of the POM.

- Establish a procurement management information system for monitoring progress of procurement activities.
- Draft and arrange the publication of General Procurement Notice in accordance with Bank Guidelines, and Specific Procurement Notices for individual packages to be procured.
- Prepare/review bidding documents and request for proposals for goods, works and non-consulting and consulting services, using the agreed Standard Bidding Documents and standardized formats.
- Provide expert advice on strategic procurement decisions such as procurement method, size and composition of lots of goods and or works, delivery schedules, delivery terms, employment of consulting firms or individuals etc.
- Assist other specialists/experts in the preparation of Terms of Reference, evaluation criteria, methodology, delivery terms, and other technical and commercial conditions to ensure overall consistency within the bidding documents, conformity with prevailing industry standards or local conditions and with current market conditions.
- Initiate and progress the procurement process from the issue of IFBs/REOs to award and completion of contracts.
- Coordinate timely issue of requests and documents to the Bank for Bank's review and 'no objection' for prior review cases, at various stages of procurement.
- Ensure timely response to requests for clarifications by bidders.
- Provide assistance for pre-bid meetings, bid opening, and preparation of evaluation reports in the standard format of the Bank.
- Oversee preparation and finalization of draft contracts and publication of award information.
- Advise and assist SPCU and other IEs in key aspects of contract management for goods, works, non-consulting services and consulting services including: (i) receipt and acceptance of goods and equipment; (ii) variation orders, extensions of time and other contractual matters affecting the cost and/or the duration of the works; (iii) receipt and approval of consultant reports; (iv) contractual payments etc.
- Oversee the establishment and maintenance of a central procurement filing system in the SPCU, including complete documentation of the procurement process for all contracts, and availability of records for reviews by the management and the Bank.
- Establish and maintain database of technical specifications, prices and other relevant information for major items procured.
- Establish and maintain a database of suppliers and contractors for procurement of goods, works and non-consulting services under the shopping method.
- Carry out any other procurement and contract management related duties of SPCU.
- Perform such other tasks as the Project Director may direct from time to time.

The tasks to be performed by procurement staff at the TSUs will be (i) the same/ similar to those of the SPCU Procurement Specialist, in respect to procurements handled at decentralized levels; and (ii) to support SPCU and IEs for procurements handled by them respectively.

3.6 Procurement Review

Procurement review refers to review of files and documents relating to the procurement of goods, works, non-consulting and consulting services. Procurement review is carried out to ascertain whether the procurement procedures were correctly and completely followed both in letter and spirit. It brings out omissions/commissions and lapses, on account of poor or inadequate understanding of procedures or willful negligence, including likely fraud and corruption. The report and observations of the procurement review therefore also act as a guide for taking corrective measures to streamline and improve the procurement system. The procurement review will be done by the following:

SPCU: The SPCU will undertake periodic review of its own procurements and the procurements done by IEs on a sample basis and take necessary corrective measures. The procurement review may include/cover the following aspects and may be done by the SPCU or through external auditors as decided by the Chief Project Director or his/her designee whether:

- (a) The procurement plan was prepared, and all procurements made are as per the procurement plan
- (b) The methods adopted for procurement were as per the procurement plan, and whether specified thresholds were observed
- (c) Procurement decisions were taken with due consideration and recommendations of the Evaluation Committee and approval of the competent authority
- (d) The overall procurement was done within a reasonable time. Whether there was any avoidable delay at any stage of the procurement process
- (e) Proper and adequate documents relating to procurement were maintained
- (f) The technical and financial evaluation was done fairly and in a transparent manner
- (g) The contracted firm supplied the goods or executed the work as per the quality, quantity and price agreed upon. Whether the procured goods were supplied or works were executed in time and were properly recorded in stock books/works registers after inspection
- (h) Payments were made in time and penalties were imposed or waived by the competent authority. Whether there were undue delays in payments, if any.
- (i) Deliveries by consultants were as per the contract, the reports were approved by the competent authority and payments were released in time.

The Bank: The Bank's review procedures – both prior and post review – are described in Appendix 1 of the Procurement and Consultant Guidelines and are briefly covered in Chapter 8 of this Manual. The Procurement Plan approved by the Bank specifies the extent to which these review procedures will apply in respect of different categories of goods, works, non-consulting and consulting services financed in whole or in part under the Bank loan.

3.7 Procurement – Risk Mitigation Plan

The following actions are being and will be taken by DoT to mitigate the procurement risks:

- (a) *Procurement Manual:* Ensure that this Procurement Manual describing formats for preparation of bid documents/RFP, evaluation reports, pre-bid minutes, bid opening

- minutes, contract information, checklists, etc. to remove lack of clarity on public procurement process, is well understood and is regularly used to ensure consistency;
- (b) *Procurement Trainings*: Arrange a series of procurement training programs by procurement experts for all related personnel in SPCU, TSUs and implementing entities. The trainings will be aimed at building capacity in procurement and contract execution;
 - (c) *Record Keeping*: The Procurement Specialist at the SPCU will provide guidance to all concerned officers of SPCU and IEs to ensure that all records regarding procurement activities under the project are kept in an indexed and safe manner and will be readily available for Bank review;
 - (d) *Disclosure Policy*: Ensure disclosure of information as required under the Bank Guidelines, and in compliance with the RTI Act 2005;
 - (e) *Complaint Redressal Mechanism*: Ensure that a robust complaint handling mechanism is set up to deal with complaints from bidders, contractors, suppliers, consultants, and others. Efforts will be made to make the complaint handling mechanism available on the project/DoT website. Until the web-based system is made available, a register of complaints redressal will be prepared and maintained in Form 8 – Complaints Register given in the POM. Even after the web-based system has become operational, parallel paper-based complaints will be received and acted upon. All complaints will be registered, monitored and handled expeditiously at a level higher than the level at which the procurement process was undertaken. Allegations made in the complaints will be thoroughly investigated and if found correct, appropriate remedial/corrective measures will be taken. A database will be created, updated and incorporated into a procurement information MIS (see below), for generating reports for suitable monitoring.
 - (f) *Procurement MIS*: Develop a procurement MIS to ensure that all contract information and its related details are available from all DAs and any other implementing entities for necessary review, monitoring and for taking proactive corrective steps wherever necessary.

3.8 Performance Indicators

The performance of procurements carried out under the project by the SPCU and various IEs can be assessed by a study of the procurement MIS. The SPCU will decide on the indicators to be monitored under the project, from amongst a wide variety of potential indicators. The main performance indicators may include time taken (i) for preparation of bid documents, (ii) for approval of bid documents, (iii) for evaluation of the bids received, (iv) for actual award of contracts, (v) for completion of contracts, (vi) for payments made, (vii) time overrun on contracts, (viii) extent of variation orders issued for civil works contracts, (ix) extent of cases of no bids, single bids, and rebids, (x) extent of termination and short closure of contracts, etc.

3.9 Methods of Procurement and Threshold Values

Table 6 shows the methods of procurement and threshold values under the project.

Table 6: Methods of Procurement and Thresholds

Category	Method of Procurement	Threshold (in US\$ and INR equivalent)	
Goods and non-- consulting services (including IT contracts)	ICB	≥ 3,000,000	≥19.5 Crore
	LIB	Wherever agreed by t h e Bank	
	NCB	Up to 3,000,000 (with NCB conditions)	Up to 19.5 Crore
	Shopping	Up to 100,000	Up to 65 lakh
	DC	As per Paragraph 3.7 of Procurement Guidelines	
	Framework Agreements	As per Paragraph 3.6 of Procurement Guidelines, within the threshold applicable for NCB	
	From UN Agencies	As per Paragraph 3.10 of Procurement Guidelines	
	Force Account	As per Paragraph 3.9 of Procurement Guidelines	
Works	ICB	≥ 40,000,000	≥ 260 Crore
	NCB	Up to 40,000,000 (with NCB conditions)	Up to 260 Crore
	Shopping	Up to 100,000	Up to 65 lakh
	DC	As per Paragraph 3.7 of Procurement Guidelines	
	Force Account	As per Paragraph 3.9 of Procurement Guidelines	
Consultants' services	QCBS	As per Section II of Consultant Guidelines	
	CQS	Up to 300,000	Up to 1.95 Crore
	SSS	As per Paragraphs 3.8-3.11 of Consultant Guidelines	
	Individual Consultants	As per Section V of Consultant Guidelines	
	LCS	As per Paragraph 3.6 of Consultant Guidelines	
	QBS	As per Paragraph 3.2 of Consultant Guidelines	
	FBS	As per Paragraph 3.5 of Consultant Guidelines	

(i) International shortlist	>800,000	> 5.2 Crore
(ii) Short list may comprise national consultants only	Up to 800,000	Up to 5.2 Crore

Notes:

- (a) INR conversion at Rs. 65/US\$. The corresponding INR values will change depending on the exchange rate at the time of procurement
- (b) Wherever guidelines have been referred to and specific limits have not been prescribed, the project will follow the provisions applicable to the specific package in the Procurement Plan.
- (c) Domestic preference - not applicable.
- (d) Value of the contract includes all taxes and duties if payable under the contract.

The SPCU will prior review the first contract in each category issued by each implementing entity, even if the estimates of those contracts are below the prior review threshold value. It may continue doing so in case of technically complex subprojects and for quality assurance purposes, when necessary.

3.10 Procurement Plan

A Procurement Plan (PP) is critical for the successful monitoring and implementation of the project. A preliminary PP has been prepared for the entire scope of the project, as part of the project preparation. The Department of Tourism and the implementing entities have developed a Procurement Plan for procurement of civil works, goods and consulting services planned for the first 18 months of the project, which has been approved by the World Bank Team. The Department of Tourism has also prepared an indicative Procurement Plan at project level, sequencing all subprojects and activities to be financed under the project until closing. The PP can be updated throughout the duration of the project to reflect the actual project implementation needs and improvements in institutional capacity, but is updated at least annually by including contracts previously awarded and to be procured in the next 12 (twelve) months. All PPs and their updates or modifications are subject to the Bank's prior review and no objection before implementation. After project negotiations, the Bank arranges the publication of the PP and all subsequent updates on its external website.

In the PP for goods, works and non-consulting services, individual packages to be procured are identified along with other details given below, and as per the Bank's standard template for PPs:

- (a) a brief description of each package of goods, works and non-consulting services;
- (b) proposed method of procurement;
- (c) the Bank's review requirements and thresholds;
- (d) the implementing entity; and
- (e) the time schedule for key procurement activities.

For procurement of goods, works and non-consulting services, contract packaging will be determined keeping in view the following:

- (a) Time limits for completion of supplies/work
- (b) Geographical location (dispersal of works)
- (c) Institutional capacity of implementing entities
- (d) Size of contracts and economies of scale

The PP for consultancies will contain:

- (a) a brief description of each of the consulting services required for the project for which invitations for proposals are to be issued;
- (b) the proposed methods of selection;
- (c) the Bank review requirements and thresholds; and
- (d) the time schedule for key selection activities, and any other information that the Bank may reasonably require.

The methods of procurement for goods, works and non-consulting services, as well as the methods of selection of the consulting firms and individual consultants, are as specified in the Financing Agreement. Any method not allowed by the Financing Agreement cannot be specified in the PP and cannot be used for procurement, unless it is specifically agreed to by the Bank as an exception, due to conditions requiring grant of such an exception. All procurement activities will be carried out in accordance with the agreed and cleared PP. The project will implement the PP in the manner in which it has

been approved by the Bank.

IEs will prepare their PPs in accordance with the agreed cost tables and send to the SPCU. Individual IE PPs will be consolidated by the SPCU and sent to the Bank for review and no objection.

3.11 Procurement Plan for the Project: STEP

The approved PP of the project and all its updates will be placed on the project/DoT website, and only contracts listed in the PP will be procured by the SPCU, and IEs. The PP will subsequently be migrated to the 'Systematic Tracking of Exchanges in Procurement (STEP)' system. The system, when implemented, helps the management in 'Planning and Tracking', 'Streamlining' and 'Monitoring and Reporting' of various procurement activities under the project.

3.12 E-Procurement System

Procurement under this project will be conducted through the GoUP e-procurement portal, using approved e-bidding documents, once the e-procurement system has been assessed by the Bank and cleared for use. Until the Bank approves e-procurement portal, manual procurement would be followed using the agreed documents for manual procurement.

4. Procurement Processes and Methods for Procurement of Goods, Works and Non-Consulting Services

4.1 Procurement Process

Goods, works and non-consulting services included in the PP cleared by the Bank will be procured as per the Bank Procurement Guidelines and the procedure described in this Manual. For any contract to be procured, the method of procurement and the Bank's review (prior or post review) will be as specified in the PP, and institutional responsibilities for preparation and approval of bidding documents, invitation of bids, evaluation of bids, award of contracts, and management of contracts for goods, works and non-consulting services are as given in **Table 1**. Only agreed bidding documents and suggested templates for preparation of bid evaluation reports and other procurement activities will be used.

4.2 Procurement by Implementing Entities

Implementation of works contracts at the destination level will be the responsibility of the implementing agencies, i.e., ADA, VDA, MVDA, KSDA, and potentially the DoF in certain circumstances. While procurement of contracts to be executed by the implementing entities will be carried out by the SPCU with support from the respective IEs, the individual contracts will be signed, managed and paid for by the IEs. Accordingly, the IEs will be responsible for supporting the SPCU in (a) preparation and clearance of DPR; (b) drawing of technical specifications and preparation of bid document; (c) pre-bid conference; (d) opening and evaluation of bids; and (e) preparation of draft contract. Further, IEs will be responsible for (a) entering into (signing) the contract; (b) contract management, quality management and contractor payments; (c) resolution of disputes; and (d) operation and maintenance of the newly created assets, except where the asset is transferred to an agency other than the IE. Unless of complex nature, smaller value procurements decentralized to the IEs up to the shopping threshold (US\$ 100,000 equivalent in each case) will be procured, approved, managed and paid for by the IEs, following the agreed procurement procedures.

4.3 Methods of Procurement

The following methods of procurement can be used for procurement of goods, works and non-consulting services, under the project:

International competitive Bidding (ICB);

Limited International Bidding (LIB);

National Competitive Bidding (NCB);

Shopping;

Framework Agreements;

Direct Contracting;

Force Account; and

Procurement from United Nations agencies.

The specific contracts to be financed under the project and their methods of procurement consistent with the Financing Agreement are specified in the Procurement Plan. All procurements under the project will only be carried out in accordance with the agreed Procurement Plan.

4.4 International Competitive Bidding

Procurement following International Competitive Bidding (ICB) is often applied to complex tasks and those which benefit from the expertise of reputable international firms or experts and follow global standards.

4.4.1 Where Best Suited

ICB, properly administered, is the appropriate method to ensure the most economical procurement, since competition is open to all eligible bidders. ICB is adopted in the following cases:

- (a) Where the estimated cost of the goods, works or non-consulting services falls within ICB threshold as stated in Table 6;
- (b) Where supplies need import and entail payment in foreign currency, irrespective of value of procurement;
- (c) Where the subprojects or activities to be developed or implemented are of a complex or unique nature.

4.4.2 Requirements of ICB

- (a) Publication by the SPCU of General Procurement Notice (GPN) in *UN Development Business online (UNDB online)*. The project will prepare and send the notice to the Bank, and the Bank will arrange for its publication in UNDB.
- (b) Publication of specific procurement notices (IFBs) in UNDB and the Bank's external website. Until the DoT/SPCU and the project implementing Entity(ies) are authorized to upload notices through client connection, the project will prepare and send these notices to the Bank, which will arrange for their publication.
- (c) Publication of the Specific Procurement Notices (IFBs) in at least one newspaper of national circulation in India or in the official gazette or on a widely used website or electronic portal with free national and international access.
- (d) Use of the Bank's standard bidding documents.
- (e) Sale or downloading of the bidding documents to start only after the publication of the IFBs in UNDB online and national newspapers.
- (f) The time allowed for preparation and submission of bids will generally not be less than 6 (six) weeks from the date of invitation to bid or the date of availability of the bidding documents, whichever is later. For large works or complex equipment, this period will generally be not less than 12 weeks to enable prospective bidders to conduct investigations before submitting their bids.

4.4.3 Steps in ICB

The main steps in ICB are as follows:

- (a) Notification and advertising;
- (b) Sale of bidding document to prospective bidders/uploading of the bidding document on the e-procurement portal;
- (c) Prebid conference if so specified in the bidding document, issue of clarifications/addenda to bid documents;
- (d) Submission of bids manually by bidders/uploading of bids on the e-procurement portal by the bidders;
- (e) Opening and evaluation of bids, Selection of lowest evaluated responsive bidder based on post-qualifications;
- (f) Contract award and signing of the agreement with the selected Contractor/ Supplier;
- (g) Publication of information related to the award in UNDB and project website;
- (h) Receipt and handling of complaints from bidders after publication of award;
- (i) Contract performance by the Contractor/Supplier, and dispute resolution as required.

In all cases of ICB, the Bank's no objection will be obtained before proceeding to the next procurement stage. The evaluation and comparison of bids will be on CIP (place of destination) prices for the supply of imported goods, and EXW prices plus cost of inland transportation and insurance to the place of destination, for goods manufactured within India, together with prices for any required installation, training, commissioning, and other similar non-consulting services.

4.5 Limited International Bidding (LIB)

4.5.1 Where Best Suited

LIB is essentially ICB by direct invitation without open advertisement. It may be an appropriate method of procurement where:

The amounts are small and there are only a limited number of suppliers; or
Other exceptional reasons that justify departure from full ICB procedures.

Under LIB, the project will seek bids from a list of potential suppliers broad enough to ensure competitive prices and high quality. Such a list will include all suppliers when there are only a limited number. Domestic preferences are not applicable in the evaluation of bids under LIB. In all respects other than advertisement and preferences, ICB procedures will apply.

4.6 National Competitive Bidding

4.6.1 Where Best Suited

National Competitive Bidding (NCB) is used to procure goods, works and non-consulting services which by their nature or scope are unlikely to attract foreign competition because:

- (a) of the size and value of contract,

- (b) works are scattered geographically or spread over time,
- (c) works are labour intensive, the goods, works and non-consulting services are available locally at prices below the international market.

However, foreign bidders will not to be precluded from participation, if they wish to participate on the prevailing NCB terms and conditions particularly in respect of bidding and payments in Indian Rupees.

4.6.2 NCB Conditions under the Project

Procurement using the NCB method will be carried out in accordance with paragraphs 3.3 and 3.4 of the Procurement Guidelines with the following provisions:

- (a) Only the model bidding documents for NCB agreed with the GOI Task Force (and as amended from time to time) will be used for bidding;
- (b) Invitations to bid will be advertised in at least one widely circulated national daily newspaper (or on a widely used website or electronic portal with free national and international access along with an abridged version of the said advertisement published in a national daily giving the website/electronic portal from which the details of the invitation to bid can be downloaded) at least thirty (30) days prior to the deadline for the submission of the bids;
- (c) For smaller packages (less than US\$1 million for works and US\$ 500,000 for goods), advertisement in regional newspapers will be accepted with at least 15 days given for submission of bids;
- (d) No special preference will be accorded to any bidder either for price or for other terms and conditions when competing with foreign bidders, government-owned enterprises, small scale enterprises or enterprises from any given regional government;
- (e) Except with the prior concurrence of the Bank, there will be no negotiations of price with the bidders, even with the lowest evaluated bidder;
- (f) For prior review contracts, extension of bid validity will not be allowed without the prior concurrence of the Bank: (i) for the first request for extension, if it is longer than four weeks; and (ii) for all subsequent requests for extension irrespective of the period (such concurrence will be considered by the Bank only in cases of Force Majeure and circumstances beyond the control of the Purchaser/Employer);
- (g) For prior review contracts, re-bidding will not be carried out without the prior concurrence of the Bank;
- (h) The system of rejecting bids outside a pre-determined margin or “bracket” of prices will not be used in the project;
- (i) Rate contracts entered into by Directorate General of Supplies and Disposals (DGS&D) will **not** be acceptable as a substitute for NCB procedures, unless agreed with the Bank on case to case basis. Such contracts will be acceptable however for any procurement under Shopping procedures; and
- (j) Two or three envelope system will not be used (except when using e-procurement system assessed and agreed by the Bank).

4.6.3 Steps for NCB

The following are the main steps in using NCB:

- (a) Notification and advertising;
- (b) Sale of bidding document to prospective bidders/uploading of the bidding document on the e-procurement portal;
- (c) Prebid conference if so specified in the bidding document, issue of clarifications/addenda to bid documents;
- (d) Submission of bids manually by the bidders /uploading of bids by bidders on the e-procurement portal;
- (e) Opening and evaluation of the bids, selection of lowest evaluated responsive bidder based on post-qualifications;
- (f) Contract award and signing of the agreement with the selected Contractor/Supplier;
- (g) Publication of information related to the award in project website
- (h) Receipt and handling of complaints from bidders;
- (i) Contract performance by the Contractor/Supplier.

The comparison of all bids and the award of contract will be based on the total cost at destination including all taxes and duties.

4.7 Shopping

Goods, works and non-consulting services estimated to cost less than US\$ 100,000 equivalent per contract and which do not require tailor made specifications may be procured following Shopping procedures in accordance with the provisions of para 3.5 of Procurement Guidelines. Shopping is a procurement method based on comparing price quotations obtained from several suppliers (in the case of goods) or from several contractors (in the case of civil works), or from service providers (in the case of non-consulting services) **with a minimum of three**, to assure competitive prices. Shopping is a simple and rapid procurement method and does not require complex documentation. Requests for Quotation (RFQ) will indicate the description and quantity of goods or specifications of works, as well as desired delivery (or completion) time and place. Quotations may be submitted by letter. The evaluation of quotations will follow the same principles as of open bidding. The terms of the accepted offer will be incorporated in a purchase order or a brief contract.

Rate contracts finalized by the Director General of Supplies & Disposals (DGS&D) will be accepted for any procurement under shopping. State Government rate contract, if any, will be treated as one of the three quotations in the shopping process.

4.7.1 Where Best Suited

Shopping is an appropriate method for procuring, without delay, readily available, off-the-shelf items of goods or standard specification commodities of small value or simple civil works or non-consulting services of small value (less than the equivalent of US\$ 100,000 in each case).

4.7.2 Requirements of Shopping

Works:

RFQ for works will indicate the items of work to be completed with approximate quantities, the specifications to be followed, and the time period in which the works are to be completed, the method of evaluation, the date and time by which the quotations should be submitted;

Rates quoted should be fixed for the duration of the contract and will not be subject to adjustment;

The prices will be quoted in Indian Rupees only;

Each bidder will submit only one quotation;

Quotations will remain valid for a period not less than 15 days after the deadline date specified for submission of quotations;

A reasonable period of a few days is usually provided to the contractors to submit their sealed quotations;

Minimum three quotations from different contractors to ensure competition;

Evaluation of quotations in the same way as open bidding and selection of lowest evaluated responsive contractor;

Entering into a brief contract with the selected contractor.

Goods:

RFQ for goods will indicate the items with quantities to be supplied, specifications for the items, the required delivery period, warranty required, the method of evaluation, the date and time by which the quotations should be submitted;

Rates quoted should be fixed for the duration of the contract and will not be subject to adjustment;

The prices will be quoted in Indian Rupees only;

Each bidder will submit only one quotation;

Quotation will remain valid for a period not less than 15 days after the deadline date specified for submission of quotations;

All duties, taxes and other levies payable on the raw materials and components will be included in the total price;

GST other applicable taxes in connection with the sale will be shown separately;

If the quotations are called for more than one item, it should also be indicated in the RFQ whether the evaluation would be for each item separately or as a package of all items together;

A reasonable period of a few days is usually provided for the suppliers to submit the quotations;

Minimum three quotations from different dealers to ensure competition;

Evaluation of quotations in the same way as open bidding and selection of the lowest evaluated responsive Supplier;

Issue of Purchase/Supply Order to the selected Supplier.

The comparison of all bids and the award of contract will be based on the total cost at destination including all taxes and duties

4.7.3 International Shopping

When there is more than one source for the goods at competitive prices in India, national shopping within the limits specified in legal agreements may be used. If this is not the case, then international shopping will be used, and quotations will be invited from international suppliers usually from at least two different countries. The letter inviting quotations should additionally spell out the method of submission of quotations, requirement of dispatch, insurance if any, delivery terms, payment of customs/import duty, currencies of the bid and payment, exchange rate, and procedure for evaluation of quotations, etc.

4.8 Framework Agreements

A Framework Agreement (FA) is a long-term agreement with suppliers, contractors and providers of non-consulting services which sets out terms and conditions under which specific procurements (call-offs) can be made throughout the term of the agreement. FAs are generally based on prices that are either pre-agreed, or determined at the call-off stage through competition or a process allowing their revision without further competition.

4.8.1 Where Best Suited

FAs may be permitted as an alternative to the Shopping and NCB methods for:

- (a) Goods that can be procured off-the-shelf or are of common use with standard specifications;
- (b) Non-consulting services that are of a simple and non-complex nature and may be required from time to time by the same (or multiple) entities; or
- (c) Small value contracts for works under emergency operations.

4.8.2 Requirements of Framework Agreements

The project will submit to the Bank for its no-objection the circumstances and justification for the use of an FA, the particular approach and model adopted, the procedure for selection and award, and the terms and conditions of the contract;

FAs will not restrict foreign competition and should be limited to a maximum duration of 3 (three) years;

FA procedures applicable to the project are those of GoUP that have been deemed acceptable by the Bank and are as described in the Financing Agreement;

Maximum aggregate amounts for the use of an FA will be set in the Procurement Plan in accordance with the risks and will in no case be higher than the applicable NCB maximum aggregate amounts, and will be agreed with the Bank;

FAs will follow all guiding principles and procedures of NCB under paragraphs 3.3 and 3.4 of Procurement Guidelines, including but not limited to the procedures of advertisement, fair and open competition, an effective and independent protest mechanism and transparent bid evaluation and selection criteria.

Publication of award will follow the disclosure policy as per the Procurement Guidelines.

FAs will follow all guiding principles and procedures of NCB, which also cover the

comparison of bids and award of contract which will be based on the total cost at destination including all taxes and duties.

4.9 Direct Contracting

Direct contracting is contracting without competition (single-source).

4.9.1 Where Best Suited

Direct contracting may be an appropriate method only under the following circumstances:

An existing contract for goods, works and non-consulting services awarded with procedures acceptable to the Bank, may be extended for additional goods, works and non-consulting services of a similar nature. The Bank will be satisfied in such cases that no advantage could be obtained by further competition and that the prices on the extended contract are reasonable. Provision for such an extension, if considered likely in advance, will be included in the original contract;

Standardization of equipment or spare parts, to be compatible with existing equipment, may justify additional purchases from the original supplier. For such purchases to be justified, the original equipment will be suitable, the number of new items will generally be less than the existing number, the price will be reasonable, and the advantages of another make or source of equipment will have been considered and rejected on grounds acceptable to the Bank;

The required equipment is proprietary and obtainable from one source;

The procurement of certain goods from a particular supplier is essential to achieve the required performance or functional guarantee of an equipment or plant or facility;

In exceptional cases, such as, but not limited to, in response to natural disasters and emergency situations declared by the GoUP and recognized by the Bank.

For such contracting to be justified, the Bank must be satisfied that the price is reasonable and that no advantage could be obtained by further competition. Direct Contracting can be used to procure from private sector, UN agencies/programs (for goods) or contractors or NGOs that are already mobilized and working in project target areas. Books and journals could be procured directly from the publishers either manually or through the internet.

After contract signatures, the award will be published in accordance with the disclosure policy as per the Procurement Guidelines.

4.10 Force Account

Force Account is the execution of certain components or whole of the work and non-consulting services carried out by a government department/agency by use of its own personnel, materials, and equipment, and may be the only practical method of

procurement under specific circumstances.

Maximum aggregate amounts for use of Force Account are agreed with the Bank, and the same rigorous quality checks and inspection are applied, as for contracts awarded to third parties.

The use of Force Account will be justified and may only be used with Bank's clearance, under any of the following circumstances:

- (a) Quantities of construction and installation works that are involved cannot be defined in advance;
- (b) Construction and installation works are small and scattered or in remote locations for which qualified construction firms are unlikely to bid at reasonable prices;
- (c) Construction and installation works are required to be carried out without disrupting ongoing operations;
- (d) Risks of unavoidable work interruption are better borne by the project than by a Contractor;
- (e) Specialized non-consulting services such as aerial surveys and mapping, as matter of India's law or official regulations for consideration such as national security, can only be carried out by specialized branches of the government; or
- (f) Urgent repairs to prevent further damages, requiring prompt attention, or works to be carried out in conflict-affected areas where private firms may not be interested.

4.11 Procurement from United Nations Agencies

4.11.1 Where best suited

Procurement from UN Agencies may be an appropriate method under the following circumstances and may be used with the Bank's clearance for specific packages:

- (a) Procurement of small quantities of off-the-shelf goods and commodities (normally not exceeding US\$100,000) primarily in the fields of education, health or other similar areas;
- (b) Procurement of small value contracts (normally not exceeding US\$200,000) for works of a simple nature when the UN Agencies act as contractors or directly hire small contractors and skilled or unskilled labour; or
- (c) In exceptional cases such as in response to natural disasters and emergency situations declared by GoUP and agreed by the Bank.

In all such cases the project will submit to the Bank for its no-objection full justification for the proposal and the draft form of agreement (based on the standard form of agreement) proposed to be executed with the UN Agency.

5. Project Procurement Procedures for Goods, Works and Non-Consulting Services

5.1 Notification and Advertising

In the project, competitive bidding procedures will be followed except to the extent

allowed otherwise and agreed with the Bank. Timely notification of bidding opportunities is essential in competitive bidding. To that end (i) in case of NCB, invitations to bid will be advertised as Specific Procurement Notices (SPNs) as per the agreed NCB conditions, while (ii) in case of ICB, the SPNs will also be published in UNDB and on the Bank's external website. To satisfy the requirement of GoUP, the brief IFB may also be published in a Hindi newspaper of wide circulation in the state, particularly in the project districts. Until the DoT/SPCU and the project implementing entity(ies) is authorized to upload notices through "[Client Connection](#)", the project will prepare and send these notices to the Bank, which will arrange for their publication in UNDB and the Bank's external website.

5.2 Bidding Documents

5.2.1 General

Agreed Bidding Documents, as follows, will be used for procurements under the project. The Bank's Standard Bidding Document will be used for all procurements following ICB, while model bidding documents as agreed with the GoI Task Force (and as amended from time to time) will be used for NCB. For e-procurement, documents as appropriately modified and cleared by the Bank will be used. Only minimum changes necessary to address project-specific conditions will be made to the documents. Such changes will be introduced through bid or contract data sheets, or through special conditions of contract, and not by introducing changes in the standard wording of the SBDs.

- (a) **The Bidding documents** should furnish all information necessary for a prospective bidder to prepare a bid for the goods, works and non-consulting services to be provided. While the detail and complexity of these documents vary with the size and nature of the proposed bid package and contract, they generally include the following:
- Invitation for Bid (IFB);
 - Instructions to Bidders (ITB) and bid data sheet;
 - Form or letter of Bid;
 - Form of Contract;
 - Conditions of Contract: General and Special (GCC and SCC);
 - Specifications and Drawings;
 - Relevant technical data;
 - List of Goods (Schedule of Requirements) or Bill of Quantities (for works);
 - Price Schedules;
 - Delivery time/ Completion period;
 - Necessary appendices such as formats for various securities.
- (b) The basis for bid evaluation and selection of the lowest evaluated bid will be clearly outlined in the instructions to the bidders and/or the specifications. Bidding documents will specify what inspection and tests the Purchaser requires, where and who will conduct the tests. If a fee is charged for the bidding documents, it will be reasonable and reflect only the cost of their typing, printing or publishing in an electronic format, and delivery to prospective bidders, and will not be so high as to discourage qualified bidders. The bidding documents for works may indicate the estimated total cost of the contract, but will not indicate detailed cost estimates such as priced bills of quantities.

- (c) The bidding documents will specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated. All prospective bidders will be provided the same information, and will be assured of equal opportunities to obtain additional information on a timely basis. The DoT/SPCU and the project implementing entity(ies) will provide reasonable access to project sites for visits by prospective bidders. Standards and technical specifications quoted in bidding documents will be such as to promote the broadest possible competition, while assuring the critical performance or other requirements for the goods and/or works under procurement. Specifications will be based on relevant characteristics and/or performance requirements, and references to brand names, catalog numbers, or similar classifications will be avoided.
- (d) In ICB, the bidding documents will include specific clauses with respect to bid submission, evaluation criteria, transportation and insurance, currency of bid, procedure for conversion of currencies for bid comparison, currency of payment, inspection, dispute resolution etc.

The bidding document will be uploaded on the GoUP e-procurement portal, and these can be downloaded by the prospective bidders free of cost once the bidder has registered itself on the portal. Guidance on critical components of the bidding documents are discussed in the following paragraphs.

5.2.2 Model Bidding Documents

The standard bidding documents for ICB procurement of goods and works are available on the website of the Bank. For other methods, the following model bidding documents will be used for procurement of goods, works and non-consulting services in this project.

Goods and Works:

The Procurement Manual and model documents for NCB and Shopping are listed in the Annexure. Copies of the above Bank-approved documents (for manual as well as e-procurement) will be uploaded on the project/DoT website for use by the SPCU and IEs.

5.3 Guidelines about Commercial Terms of Bidding Documents

5.3.1 Validity of the Bids

The usual period of validity to be stipulated in the bidding document is 90 days. However it could be increased to 120 days in case of complex contracts, where the process of evaluation and the decision for award of contract is likely to take more time.

5.3.2 Bid Security

Bidders are required to deposit an amount specified in the bidding document, along with their bid (Bid Security). **Bid security** will be a fixed amount which is about 2% of the estimated cost of goods/ works. The bid security will be in the form and amount as stipulated in the bidding documents and should be valid for a period (generally 4 (four) weeks beyond validity period for the bids) sufficient to provide reasonable time for the DoT/SPCU and the project implementing entity(ies) to act if the security is to be called/ encashed. However the e-procurement portal may require that a certain amount as specified in the bid document will be deposited as a processing fee by cash through the method specified. The bid securities of unsuccessful bidders will be released once the contract has been signed with the winning bidder and performance security has been received.

5.3.3 Performance Security Deposit

Contracts for works and single responsibility contracts will require security in an amount sufficient to protect the Purchaser in case of breach of contract by the Contractor. This security will be provided in an appropriate form and amount as specified in the bidding documents. The amount of the security may vary depending on the type of security furnished and on the nature and magnitude of the works or facilities. A portion of this security will extend sufficiently beyond the date of completion of the works or facilities to cover the defects liability or maintenance period up to final acceptance by the Purchaser. Contracts for works may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security in the form of a bank guarantee after provisional acceptance. The performance security and retention money in case of works are normally 5% of the contract price each.

In the case of supply of goods, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. Suppliers or manufacturers may be required to provide a security in an appropriate and reasonable amount to protect against non-performance of the contract. The security will, if required, also cover warranty obligations and any installation or commissioning requirements in accordance with the bidding documents. Performance security in case of goods is normally 10% (5 to 10%) of the price of goods.

Failure of the successful bidder to furnish the performance security will constitute a breach of contract, a cause of annulment of the award, forfeiture of the bid security, and any other remedy the Purchaser may take under the contract, and the Purchaser may resort to awarding the contract to next ranked bidder.

5.3.4 Liquidated Damages

Provisions for liquidated damages or similar provisions in an appropriate amount will be included in the conditions of contract when delays in the delivery of goods, completion of works or failure of the goods, works and non-consulting services to meet performance requirements would result in extra cost or loss of revenue or loss of other benefits to the

DoT/SPCU and the project implementing entity(ies). The quantum of liquidated damages per day or per week may be decided on a case to case basis, and will be subject to a maximum of 10% of the final contract price.

5.3.5 Price Adjustment

Bidding documents will state either that (a) bid prices will be fixed or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labour, equipment, materials, and fuel. Price adjustments are usually not necessary in simple contracts involving delivery of goods or completion of works within 18 months, but will be included in contracts that extend beyond 18 months. The bidding documents for contracts of shorter duration may also include a similar provision for price adjustment when local or foreign inflation is expected to be high. However, it is standard practice to obtain firm prices for some types of equipment (for example IT equipment) regardless of the delivery time and in such cases price adjustment provisions are not needed.

Prices will be adjusted by the use of a prescribed formula or formulae, which breaks down the total price into components that are adjusted by price indices specified for each component. The formulae and base date for application will be clearly defined in the bidding documents. If the payment currency is different from the source of the input and corresponding index, a correction factor will be applied in the formulae, to avoid incorrect adjustment. Price adjustment on the basis of documentary evidence (including actual invoices) provided by the Supplier or Contractor will not be used.

5.3.6 Domestic Preference

Not applicable.

5.3.7 Currency Provisions

In cases of ICB, LIB and international shopping, bidding documents will state the currency or currencies in which bidders are to state their prices, the procedure for conversion of prices expressed in different currencies into a single currency for the purpose of comparing bids, and the currencies in which the contract price will be paid. The specific provisions in the bidding documents are intended to (a) ensure that bidders have the opportunity to minimize any exchange risk with regard to the currency of bid and of payment, and hence may offer their best prices; (b) give bidders in countries with weak currencies the option to use a stronger currency and thus provide a firmer basis for their bid price; and (c) ensure fairness and transparency in the evaluation process.

Bidding documents will state that the bidder may express the bid price in any currency. If the bidder wishes to express the bid price as a sum of amounts in different foreign currencies, they may do so, provided the price includes no more than three foreign currencies. Furthermore, the bidders will be asked to state the portion of the bid price representing local costs, in Indian Rupees only.

For the purpose of comparing prices, bid prices will be converted to Indian Rupees, by using the selling (exchange) rates for those currencies quoted by an official source on a specific date selected in advance. Such source and date will be specified in the bidding documents, and the date will not be earlier than 4 (four) weeks prior to the deadline for the receipt of bids, nor later than the original date for the expiry of the period of bid validity. Payment of the contract price will be made in the currency or currencies in which payment has been requested in the bid of the successful bidder as in the above paragraph.

5.3.8 Pre-bid Conference

Pre-bid conference should be provided where necessary and should be convened early in the bidding process (midway), but should allow sufficient time for bidders to study the bidding documents and prepare queries/ clarifications.

The purpose of meeting will be to clarify issues and bidder's queries/questions on any matter that may be raised at this stage. Minimum post qualification criteria to be met, important provisions of the bidding document, schedule of requirements, special conditions of contract and special features of the specifications will be explained to the prospective bidders.

Minutes of the meeting indicating the responses given in the meeting (including an explanation of queries but without identifying the source of inquiry) will be provided to all prospective bidders. Under electronic bidding it will be uploaded on the e-procurement portal. It is the bidder's responsibility to check the e-procurement portal for any updates on the bid document, for pre-bid meeting minutes, and for any amendment/corrigendum. Any modification of the bidding documents which may become necessary as a result of the pre-bid meeting will be made exclusively through the notification of corrigendum and not through the minutes of the pre-bid meeting, and will be provided to all prospective bidders (after getting the same cleared by the Bank in case of prior review contracts). Under electronic bidding the corrigendum will also be uploaded on the e-procurement portal.

5.4 Availability of Bidding Documents, Receipt, and Opening of Bids

Bidding documents will be sold to the prospective bidders/uploaded on the e-procurement portal and should be available for downloading from the e-procurement portal until a day prior to the last date of receipt of bids. A period of minimum 30 days (in case of NCB), and 45 to 90 days (in case of ICB) will be allowed from date of making available the document for sale /uploading of bidding documents or from the date of publication of IFB in the press (whichever is later), and deadline for submission of bids.

In case of manual bidding the prospective bidders will be allowed to deposit sealed bids on any day during the bidding period. In case of e-procurement, the bidders can upload their bids on the e-procurement portal any time during the bidding period, and manual or any other method of submission of bids will not be permitted. The bidders will be required to register (one time) on the e-procurement portal and also obtain digital

signatures as per procedures applicable for the e-procurement portal. The procedure to be followed will be detailed in the bidding documents for information and guidance of the prospective bidders. The deadline for submission of bids and place for receipt of bids/ uploading on e-procurement will be specified in the invitation to bid.

In the case of manual bidding, the time for the bid opening will be the same as for the deadline for receipt of bids or promptly thereafter (to allow sufficient time to take the bids to the place announced for public bid opening). In case of e-procurement the date and time for opening of bids will be about 2 days after the deadline for submission of bids to allow time for submission of original bid security. Once e-bank guarantees become available, these can be uploaded along with the rest of the bid, and this time gap of 2 days will no more be required and will be discontinued. All bids received and secured with bid security will be opened in the presence of bidders or their representatives who choose to attend in person (they will be asked to sign a register evidencing their attendance) or online when electronic bidding is permitted.

In case of manual bidding, the bids can be modified or withdrawn as per provisions in the bidding document. In case of electronic bidding, bids can be modified or withdrawn as per provisions available on the e-procurement portal. However, bids, once withdrawn on the e-procurement portal cannot be uploaded again. The bidder's names, bid prices, discounts, and other details as considered appropriate will be announced and recorded during opening of bids. These will be posted online when electronic bidding is permitted. The record of bid opening will be sent to all bidders who submitted bids in time, and to the Bank in prior review cases. A suggested format for bid opening is given on the project/DoT website. All cuttings and over-writings observed in the Bid Form and Price Schedules will be authenticated by the members of the bid opening committee by encircling and initialing the cuttings/over-writings. Bids cannot be uploaded after the stipulated date and time on the e-procurement portal.

Bids and modifications that are not opened, and discounts that are not read out at the time of bid opening will not be considered for evaluation, irrespective of the circumstances. In electronic tendering only the last modified version of the bid is available for opening.

5.5 Evaluation of Bids

Before proceeding to evaluation, it will be ascertained whether the bids:

- (a) meet the eligibility requirements;
- (b) have been properly signed; are accompanied by the required authorization/undertaking;
- (c) are accompanied by the required securities;
- (d) are substantially responsive to the requirements of bidding documents;
- (e) provide any clarification and/or substantiation that the Purchaser requires to determine the responsiveness; and
- (f) are otherwise generally in order.

If a bid is not substantially responsive, that is it contains material deviation from or

reservation to the terms, conditions and specifications in the bidding documents, it should not be considered further. The bidder will neither be permitted nor invited to correct or withdraw material deviations or reservations once bids have been opened.

The Purchaser may waive any minor informality or nonmaterial nonconformity or irregularity in a bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any bidder. In those cases for the purposes of evaluation, adjustments should be made for the costs to the Purchaser of any quantifiable non-material deviation or reservations.

A substantially responsive bid is one which conforms to all the terms and conditions of bidding document without material deviations. The determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence.

No bidder should be requested or permitted to alter his bid after the bid has been opened. In order to evaluate the bid, if any clarification is required, the same can be called for. The request for clarification and the response will be in writing and no change in the price or substance of the bid will be sought, offered or permitted. For example, historical information may be called if required, and bids should not be rejected solely on account of non-submission of historical information.

No preferential treatment should be given to any bidder or class of bidders either for price or for condition unless specifically cleared by the Bank and stipulated in the Financing Agreement. Any procedure under which bids above or below a pre-determined margin or 'bracket' of prices is rejected will not be used.

The evaluation reports will be prepared detailing the various steps for evaluation of bids leading to the recommendations for award of the contract. Suggested format for preparation of the evaluation report for goods is given in the project/DoT website.

5.6 Single Bids

Where only one bid is received, efforts should be made to ascertain the reasons. If it is determined that publicity was not adequate, bid specification or any of the terms were restrictive or unclear, the bid will be cancelled and invited afresh after amending the specifications/terms, etc. Bids will not be rejected and new bids invited on the same bidding and contract documents solely for the purpose of obtaining lower prices.

Lack of competition will not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the bidding process may be considered valid, if the bid was satisfactorily advertised, the qualification criteria were not unduly restrictive, and prices are reasonable in comparison to market values.

5.7 Extension of Bid Validity

If extension of bid validity is required, it should be sought from all bidders before the

stipulated expiration date. The extension will be for the minimum period required to complete the evaluation. In the case of fixed price contracts, requests for second and subsequent extensions may be permissible only if the DoT/SPCU and the project implementing entity(ies) have provided an appropriate mechanism as provided in the Bank SBD/Model documents to adjust the quoted price of the winning bidder to reflect any increase in the cost of inputs for the contract over the period of extension.

Whenever an extension of bid validity period is requested, bidders will not be requested or be permitted to change the quoted (base) price or other conditions of their bid. Bidders will have the right to refuse to grant such an extension. If the bidding documents require a bid security, bidders may exercise their right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid will be required to provide a suitable extension of bid security.

In prior review cases, extension of bid validity will not be requested without the prior concurrence of the Bank: (i) for the first request for extension, if it is longer than four weeks; and (ii) for all subsequent requests for extension irrespective of the period.

5.8 Award of Contract

Contract will be awarded within the period of the validity of bids to a bidder, who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) who has offered the lowest evaluated price. A bidder will neither be required nor permitted, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.

5.9 Rejection of All Bids

Rejection of all bids is justified when there is lack of effective competition, or all bids are not substantially responsive, or no bidder meets the specified qualification criteria, or the bid price of the lowest evaluated winning bid is substantially higher than the DoT/SPCU and the project implementing entity(ies) updated estimated cost or available budget. If all bids are rejected, the Borrower will review the causes justifying the rejection of all bids and make appropriate revisions to the bidding documents before re-inviting bids.

The Bank's prior no objection will be obtained before rejecting all bids, soliciting new bids, or entering into negotiations with the lowest evaluated bidder. The format for seeking the approval of the Bank is given on the project/DoT website. This should also be appropriately notified on the e-procurement portal for information of the bidders.

5.10 Resolution of Disputes

There can be a number of possible causes of dispute during the execution of contract, which may involve:

- Interpretation of the terms and conditions of the contract.
- Delay in delivery.

- Delay in release of payment.
- Condition of the items on arrival at consignee site and after delivery.
- Design and specification issues.

As far as possible, disputes may be resolved with mutual agreement between the Employer/Purchaser and Contractor/Supplier to avoid going through arbitration and litigation stages.

Arbitration - In case of dispute or difference between the Employer/Purchaser and Contractor/Supplier relating to any matter arising out of or connected with the contract, such dispute or difference will be settled in accordance with the Arbitration and Conciliation Act, 1996. International commercial arbitration in a neutral venue will be provided for contracts awarded to foreign firms. The Bank will not be named as the Arbitrator nor will be asked/requested to name an Arbitrator.

5.11 Law Governing the Contract

The contract will be governed by the laws of India in force.

5.12 Publication of Award of Contract

The project will publish information (i) on *UNDB online* for all contracts awarded under ICB and LIB, and all direct contracts, and (ii) on the project website for all contracts awarded under NCB, including those awarded under Framework Agreements and under Force Account, and small value direct contracts (US\$ 100,000 for goods and US\$ 200,000 for works). Such publication will be within two weeks of receiving the Bank's no objection to the award recommendation for contracts subject to the Bank's prior review, and within two weeks of the project's award decision for contracts subject to post review. Publications will include the bid, lot numbers, and the following information, as relevant and applicable for each method:

- the name of each bidder that submitted a bid;
- bid prices as read out at bid opening;
- evaluated prices of each bid that was evaluated;
- the names of bidders whose bids were either rejected as nonresponsive or not meeting qualification criteria, or not evaluated, with the reasons thereof; and
- the name of the winning bidder, the final total contract price, as well as the duration and summary scope of the contract.

The Bank will arrange the publication of the awards of contract under prior review on its external website upon receipt from the project of a conformed copy of the signed contract and the performance security if applicable.

5.13 Consultation with and Information to be Submitted to the Bank

For all contracts requiring prior review as well as for those which would increase the value of contract to the prior review threshold and above, before agreeing to any material modification or waiving of the terms and conditions, or granting a material extension of the stipulated time for performance of such contract, or issuing any change

order under a contract, which would in aggregate increase the original amount of work by more than 15% of the contract price, the Bank's clearance will be obtained. The format for seeking the Bank's clearance is given on the project/DoT website.

Copies of contracts for the Post Review Contracts are not to be forwarded to the Bank. However, the information will be compiled in Form 1-A by the SPCU and sent to the Bank when so required. These may be reviewed selectively by the visiting Bank Supervision Mission or by consultants appointed by the Bank for carrying out procurement post review.

Information on the value of works executed under Force Account, and under Shopping procedures will be compiled in Forms I-B and 1-C respectively by SPCU and sent to Bank when so required. Formats of I-A, I-B and I-C are given in the project/DoT website.

5.14 Disclosure

The following documents will be disclosed on the project/DoT website:

- (i) Procurement Plan and updates;
- (ii) Invitations for bids for goods and works for all ICB/NCB contracts;
- (iii) Contract awards for goods and works procured following ICB/NCB procedure;
- (iv) List of contracts/purchase orders placed following shopping procedures on quarterly basis;
- (v) List of contracts following DC on a quarterly basis; and
- (vi) Action taken report on the complaints received on a quarterly basis.

The following details will be sent to the Bank for publishing in the Bank's external website and UNDB in addition to publishing it on the project/DoT website:

- (i) Latest approved Procurement Plan;
- (ii) Invitation for bids for procurement of goods and works following ICB procedures;
- (iii) Contract award details for all procurement of goods and works using ICB procedures;
- (iv) List of contracts/purchase orders placed following DC procedures on a quarterly basis.

The SPCU will also publish on the project/DoT website any information required under the provisions of suo moto disclosure as specified in the Right to Information Act.

5.15 Debriefing

In the publication of contract award, the Purchaser /Employer will specify that any bidder who wishes to ascertain the grounds on which its bid was not selected should request an explanation from the Purchaser. The Purchaser/Employer will promptly provide an explanation of why such bid was not selected, either in writing and/or in a debriefing meeting, at the option of the Purchaser/Employer. The requesting bidder will bear the costs of attending such a debriefing.

If the bidder is not satisfied with the written explanation given by the Purchaser/Employer and wishes to seek a meeting with the Bank, he may do so by addressing the Governance Global Practice Manager for India, who will arrange a meeting at the appropriate level with the relevant staff. The purpose of such meeting is only to discuss the bidder's bid and neither to reverse the Bank's position that has been conveyed to the Purchaser/Employer nor to discuss the bids of competitors.

6. Employment of Consultants

6.1 Consultants and Need for Consulting Services

Consulting Services refers to services of an intellectual and advisory nature provided by consultants using their skills to study, design and organize projects, advise SPCUs, conduct trainings and transfer knowledge. An organization which is charged with the responsibility of implementing a project successfully cannot be expected to have on its permanent establishment personnel of each and every skill required for various specialized services, which are required for the implementation of a complex project. Hence it is prudent for the organization to hire the services of specialized consultants as and when required.

The Consultant Guidelines do not apply to other types of services for which the physical aspects of the activity predominate, are bid and contracted on the basis of performance of a measurable physical output, and for which performance standards can be clearly identified and consistently applied, such as drilling, aerial photography, satellite imagery, mapping, and similar operations, as well as construction of works, manufacture of goods, and operation and maintenance of facilities or plant.

The term “**consultants**” includes a wide variety of private and public entities, including consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection service providers, auditors, United Nations agencies, and other multinational organizations, investment and merchant banks, universities, research institutions, government agencies, Non-governmental Organizations (NGOs), and individuals. Projects funded by the Bank use these entities 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, training, and implementation of projects to complement the government capabilities in these areas.

The DoT/SPCU is responsible for preparing and implementing the project, and therefore for selecting any consultants, and awarding and subsequently administering the contracts. The Bank, for its part, is required to “ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations,” The following five main considerations guide the Bank’s policy on selection of consultants will:

- High quality of services;
- Economy and efficiency;
- Need to give all eligible consultants an opportunity to compete;
- Encourage development and use of national consultants; and
- Transparency in the selection process.

6.2 Types of Consulting Services

Types of consultancy services typically required by Bank projects are shown in **Table 7**.

Table 7: Types of consultancy services

Preparation Services	Implementation Services	Advisory services
Sector studies / Research	Tender documents	Policy and strategy
Master plans	Procurement assistance	Re-organization
Feasibility studies	Construction supervision	Institutional building
Design studies	Project management	Training/ Knowledge transfer
Detailed project reports	Quality management	Management advice
Technical drawings	Commissioning	Technical/Operating advice

6.3 Trainings under the Project

If an assignment includes an important component for training or transfer of knowledge to the DoT/SPCU and the project implementing entity(ies) staff or national consultants, the TOR will 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 will be included in the consultant's contract and in the budget for the assignment. The assignment will be reflected in the Procurement Plan and consultancy contract entered into as per agreed consultancy procedures of the Bank.

6.4 Methods of Selection of Consultants

The methods of selection have been designed to achieve the objectives of quality, efficiency, economy, fairness and transparency in the selection process. The method most appropriate for a specific consulting assignment should be selected from amongst the available methods for selection of consultants. The choice of the appropriate method of selection is related to the nature, size, complexity, likely impact of the assignment, and technical and financial considerations. The methods for selection of consultants include:

- Quality and Cost Based Selection (QCBS);
- Quality Based Selection (QBS);
- Least Cost Selection (LCS);
- Fixed Budget Selection (FBS)
- Selection Based on Consultants Qualification (CQ);
- Single Source Selection (SSS); and
- Individual Consultant (IC)

6.5 Quality and Cost Based Selection (QCBS)

6.5.1 Features

QCBS is a method based on the quality of the proposals and the cost of the services provided. It is the most commonly used method of selection for most of types of consultant services. Under QCBS, the technical and financial proposals are submitted simultaneously in separate sealed envelopes (Two-envelope system). Proposals received after the deadline are rejected. Evaluation of the proposals is done in two stages - Quality and Cost. The envelopes containing the technical proposals are opened by the

Evaluation Committee immediately after the closing time for submission. The envelopes containing the financial proposals remain sealed and kept in safe custody. Evaluation of the technical proposals is done first as per criteria set out in the RFP. The consultants whose proposals do not meet the minimum qualifying technical score or are considered non-responsive to the RFP and TOR are informed that their financial proposals will be returned unopened after the signature of the contract.

The consultants who secure the minimum qualifying technical score are notified the date, time and place for opening of the financial proposals. The financial proposals are opened in the presence of the consultants or their representatives who choose to attend. The financial proposals are then evaluated and the combined evaluation is carried out by weighting and adding the quality and the cost scores according to weights indicated in the RFP. The consultant having the highest combined score is selected for award and is invited for negotiations. Since price is a factor of selection, staff rates and other unit rates will not be negotiated.

6.5.2 Where Appropriate

This method of selection is appropriate when:

- The scope of the work of the assignment can be defined with precision and the TOR is clear and well specified;
- An estimate with reasonable accuracy for the staff time as well as other inputs and costs required of the Consultants can be assessed;
- The risks of downstream impacts are quantifiable and manageable.

To ensure receipt of responsive proposals, the RFP under QCBS will indicate the level of key staff inputs (in staff time) estimated by the SPCU to carry out the assignment or the estimated cost of the services, but not both. However the consultants will be free to determine their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals.

6.5.3 Type of Assignments for which this Method of Selection is Adopted

QCBS is suitable for the following types of assignments:

- Feasibility studies and designs where the assignment is well defined;
- Preparation of bidding documents and detailed designs;
- Supervision of the construction of works and installation of equipment;
- Technical, financial or administrative services of a noncomplex nature;
- Procurement and inspection services etc.

QCBS permits selection of consultant based on a preferred trade-off between cost and quality. QCBS may not be appropriate for very complex or specialized assignments in which the scope of the assignment is not well defined and staff time is difficult to estimate.

6.6 Quality Based Selection (QBS)

6.6.1 Features

QBS is based on the evaluation of the quality of the proposals and subsequent negotiations of the financial proposal and contract with the consultant who submitted the highest ranked technical proposal. 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 technical proposals are first evaluated as per criteria set out in the RFP. In case only technical proposals have been invited, the consultant who has scored the highest technical score is asked to submit its financial proposal. In case both technical and financial proposals have been invited, the financial proposal of the consultant who has scored the highest technical score (which should be more than the stipulated minimum score) is opened. The financial proposal is then evaluated, and contract negotiated with the consultant. The financial proposals of other consultants are returned unopened after negotiations with the winning consultant are successfully concluded. Because the TOR of the assignments under QBS are generally more complex and less defined than under QCBS, contract negotiations with the winning consultant may be lengthy and complicated and the SPCU may need the assistance of a technical expert.

6.6.2 Where Appropriate

QBS is appropriate when:

- The downstream impact of the assignment can be so large that the quality of the services is of overriding importance for the success of the project as a whole;
- The scope of the work, the duration of the assignment, and the TOR are difficult to define and require a degree of flexibility because of the novelty or complexity of the assignment, and there is a need to select among innovative solutions;
- The assignment itself can be carried out in substantially different ways such that cost proposals may not be easily or necessarily comparable;
- The introduction of cost as a factor of selection makes competition unfair;
- The need exists for an extensive and complex capacity building program.

The RFP under QBS will also indicate the level of key staff inputs (in staff time) estimated by the SPCU to carry out the assignment or the estimated cost of the services, but not both. However the consultants will be free to determine their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals. The staff time indicated by the consultants or the cost may differ considerably from SPCU's estimates, depending on the particular methodology adopted by the consultant.

6.6.3 Type of Assignments for which this Method of Selection may be Adopted

QBS will be adopted for assignments such as the following:

- Sector and multidisciplinary studies of a complex nature;
- Strategic studies in new fields of policy and reform;
- Complex master plans, pre-feasibility and feasibility studies, or design of large and complex projects;
- Assignments in which consultant organizations with different cost structures, for

example commercial consulting firms, NGOs, UN Agencies compete (mixed short-list).

6.7 Selection under a Fixed Budget (FBS)

6.7.1 Features

In this method, the available budget is disclosed in the RFP to the invited consultants. The budget indicated in the RFP should be reasonable, compatible with the TOR and the consultants should be able to perform within the budget. The TOR should be particularly well-prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks. The RFP will clearly indicate whether the budget includes taxes or levies payable in the India and the price of any inputs provided by the DoT/SPCU and the project implementing entity(ies). The consultants are requested to submit their technical and financial proposals in separate envelopes (two envelope system). Technical proposals are evaluated first using the same procedures as for QCBS and the financial proposals of those consultants who score more than the minimum qualifying technical score are opened in the presence of the consultants who choose to attend. The proposals that exceed the indicated budget are discarded and the consultant who has submitted the highest ranked technical proposal within the budget is selected for award and is invited for negotiations.

6.7.2 Where Appropriate

FBS is appropriate where:

- The budget is fixed and cannot be exceeded;
- The TOR including the scope of work is precisely defined; and
- The time and the staff month effort required from the consultants can be assessed with precision.

6.7.2 Type of Assignments for which this Method of Selection may be Adopted

FBS is convenient for consultants because the pre-established budget allows them to determine in advance whether they are interested in competing for the proposed assignment and to develop the best proposal consistent with budget. FBS therefore reduces the financial risk for consultant and helps avoid receiving unacceptable technical proposals or no technical proposals at all. But if TOR is not precisely defined and assignment is under-budgeted, it may discourage good consultants from participating.

Typical assignments for which FBS may be used include:

- Simple pre-feasibility studies and review of existing feasibility studies;
- Review of existing technical design and bidding documents;
- Project identification for which the level of detail can be matched with the available funds etc.

6.8 Least Cost Selection (LCS)

6.8.1 Features

Under LCS, a minimum qualifying mark for quality is fixed and indicated in the RFP. Short listed consultants are requested to submit their proposals (technical and financial) in two separate envelopes. Of the consultants who have scored more than the minimum technical score, the consultant with the lowest price is selected. LCS will not normally be used as a substitute for QCBS. Because quality is to be ensured, a higher mark than usual is set (for example 70 or above) to ensure quality and avoid the risk of selecting low cost proposals of poor or marginally acceptable quality.

6.8.2 Where Appropriate

The LCS method is appropriate for assignments of a standard or routine nature where well established practices and standards exist.

6.8.3 Type of Assignments for which Method of Selection may be Adopted

The LCS method of selection may be adopted for the following type of assignments:

- Standard accounting or audits;
- Engineering designs or supervision of simple projects;
- Repetitive operations, maintenance work and routine inspections; and
- Simple surveys.

6.9 Selection Based on Consultant's Qualifications (CQS)

6.9.1 Features

Under CQS, Request for Expression of Interest (EOI) is issued and information relating to the experience and competence of the consultants relevant to the assignment is sought from as many firms as possible, and at least three qualified firms with relevant experience. Based on the information received, the EOIs are evaluated, a short list is established, and the firm with the best qualifications and experience is selected. The selected consultant is asked to submit a combined technical and financial proposal, and is then invited to negotiate the contract if the technical proposal is responsive and acceptable.

6.9.2 Where Appropriate

CQS method is appropriate for assignments for which the cost of a full-fledged selection procedure would not be justified. CQS method is used only for small assignments or emergency situations and where the estimated cost of assignment does not exceed US\$ 300,000, other than in exceptional cases. CQS method can substantially reduce the process cost for the SPCU as well as the consultants and the time required to hire a consultant. This method is particularly suitable when the past qualifications and experience of the consultant are crucial to the choice while the technical proposal itself is not likely to reveal much additional or decisive information on the suitability of the consultant for the proposed assignment.

6.9.3 Type of Assignments for which this Method may be Adopted

CQS is usually adopted for the following types of assignments:

- Evaluation studies at critical decision points in the project implementation;
- Executive assessments of strategies and programs;
- High level, short term, expert advice;
- Participation in project review panels etc.

6.10 Single Source Selection (SSS)

6.10.1 Where Appropriate

This method is used only when it offers obvious advantages over a competitive method, as in the following cases:

- The assignment represents a natural or direct continuation of a previous one awarded competitively and the performance of the consultant has been good or excellent;
- The consultant's prompt availability is essential (for example in emergency operations following a natural disaster, a financial crisis etc.);
- The contract value is very small;
- Only one consulting organization has the qualifications or experience required to carry out the assignment.

In all such cases, RFP is not required to be issued and the TOR and a sufficiently detailed justification including the rationale for single-source selection is to be submitted to the Bank for its review and no objection, except for contracts below the threshold set forth in the Procurement Plan. Single-source selection 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 is to be used only in exceptional cases. When continuity for downstream work is essential, the initial RFP will outline this prospect, and, if practical, the factors used for the selection of the consultant will take the likelihood of continuation into account, and satisfactory performance in the first assignment has to be a pre-condition for continuation.

6.11 Selection of Individual Consultants

- (i) Individual consultants are employed on assignments for which (a) team of experts is 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 is advisable to employ a firm. When qualified individual consultants are unavailable or cannot sign a contracts directly due to a prior agreement with a firm, the firm may be invited to provide qualified individual consultants for the assignment.
- (ii) Individual consultants are selected on the basis of their relevant experience, qualifications, and capability to carry out the assignment. They do not need to submit proposals and are considered if they meet minimum relevant requirements. The selection is carried out through a comparison of the relevant overall capacity of at least three qualified candidates among those who have, directly or through a firm, expressed interest in the assignment or have been approached directly by the DoT/SPCU and the project implementing entity(ies). Individuals selected to be employed will be the most experienced and best qualified, and will be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience, and, as appropriate, knowledge of local conditions such as local language, culture, administrative system and government organization. The contract is then negotiated with the selected individual consultant, or the firm as the case may be. When a contract is signed with a consulting firm to provide individual consultants, the conflict of interest provisions apply to the parent firm.
- (iii) The selection of individual consultants will be subject to prior review as per thresholds specified in Section 8. The Bank's no objection is however required in case of IC contracts exceeding US\$ 50,000: (a) when three qualified candidates are not available for comparison; (b) before firms are invited to offer the services of individual consultants; and (c) when negotiations with the selected individual fail, before proceeding to negotiate with the next best individual, or firm as the case may be.

Requirements for individual consultants will be advertised as per GoUP orders on subject. The Bank guidelines do not stipulate advertising for contracts for individuals below US\$50,000. The advertisement should specify the selection criteria that is solely based on experience and qualifications of the individual. When firms are invited to propose individual consultants, the advertisement will clarify that only the experience and qualifications of individuals will be used in the selection process, and that their corporate experience will not be taken into account, and will also specify whether the contract would be signed with the firm or with the proposed individual.

- (v) Individual consultants may be selected on a single-source basis 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 a total expected duration of less than 6 (six) months; (c) urgent situations; and (d) when the individual is the only consultant qualified for the assignment.

7. Project Procurement Procedures for Employment of Consultants

The steps involved in the selection of consultants include:

- (a) Preparation of Terms of References (TOR),
- (b) Preparation of cost Estimate and Budget for the assignment, short-listing criteria,
- (c) Advertising for seeking expression of interest (EOI),
- (d) Preparation of short list of consultants for the assignment,
- (e) Preparation and issue of the Request for Proposal (RFP) containing Letter of Invitation, ITC, TOR, and proposed draft contract,
- (f) Receipt of proposals from consultants,
- (g) Evaluation of technical proposals: consideration of quality,
- (h) Evaluation of financial proposal(s),
- (i) Final evaluation of quality and cost,
- (j) Negotiations and award of the contract to the selected firm,
- (k) Publication of award and debriefing of unsuccessful consultants.

7.1 Preparation of the Terms of Reference (TOR)

7.1.1 General Considerations

TOR forms an important part of consultant selection, and defines clearly the objectives, goals, and scope of the assignment and provides background information (including existing relevant studies and basic data) to facilitate the consultants in understanding the tasks and in preparation of their proposals. If training is an objective, it should be specifically outlined along with details of the number of staff to be trained, and so forth, to enable consultants to estimate the required resources. The TOR should also list the services and surveys necessary to carry out the assignment and the expected outputs (for example, reports, data, maps, surveys, etc.). TOR should be well prepared to reduce the risk of ambiguities during the preparation of the consultant proposals, contract negotiations and execution of the services.

TOR should not be too detailed and inflexible, so as to allow competing consultants to propose their own methodology and staffing. Firms should be encouraged to comment on the TOR in their proposals. Respective responsibilities of the SPCU and consultants should be clearly defined in the TOR. The scope of the services should be consistent with the available staff month estimate or the estimated cost of the services.

7.1.2 Contents of TOR

TOR should generally include the following:

- (a) Project and assignment background information;
- (b) Precise statement of the objectives of the assignment;
- (c) Outline of the tasks to be performed by the consultant;
- (d) Schedule for completion of tasks to be performed by the consultant;
- (e) Data, services and facilities, and counterpart personnel to be provided by the

SPCU;

- (e) If transfer of knowledge is an objective, it should be specifically outlined along with details of number of staff to be trained;
- (f) Final outputs (reports etc.) that would be required of the consultant with number of copies, time schedule for deliverables;
- (g) Composition of the review committee and the review procedure of the outputs delivered by the consultant;
- (h) List of key personnel with their qualifications and experience whose CVs would be evaluated.

7.2 Preparation of Cost Estimate (Budget)

The cost estimates or budget will be based on the assessment of the resources needed to carry out the assignment as per requirements of the TOR. The cost estimate has two broad components namely, (a) Fee or remuneration of the various experts (key personnel) and support staff required for the assignment, their monthly rates (taking into account their basic salary, social costs and firms' overheads) and the periods for which their services are required, (b) Reimbursable, which may include costs for mobilization and demobilization; travel and transport; per diem; staff allowances; office rent, supplies, equipment, insurance; communication; surveys and training programs; report submission; taxes and duties; and contingencies. The cost estimates should be worked out in detail and cover all components/ cost elements. If required the cost should be broken into foreign and local costs. The RFP should indicate the estimated level of experts' time inputs or the estimated total cost of the contract, but not detailed estimates such as fees.

7.3 Advertising and Preparation of the Shortlist

7.3.1 General

- (A) As opposed to open bidding for goods and works, consultant selection is carried out in two stages: first establishing a short list, and then a competitive selection from amongst the shortlisted consultants. A request for Expression of Interest (EOI) for each contract will be published in at least one widely circulated national daily newspaper (or on a widely used website or electronic portal with free national and international access, along with an abridged version of the said advertisement published in a national daily giving the website/ electronic portal from which the details of EOI can be downloaded). In addition, assignments expected to cost more than US\$ 300,000 will be advertised in UNDB online. In such cases EOI may additionally be advertised in an international newspaper or a technical or a financial magazine.
- (B) The information requested will 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. REOIs will at a minimum include the following information applicable to the assignment: required qualifications and experience of the firm, but not individual experts' bio data, short listing criteria, and conflict of interest provisions. No less than 14 (fourteen) days

from date of posting on UNDB online will be provided for responses, before preparation of the short list. The late submission of response to an REOI will not be cause for its rejection unless the project has already prepared a short list, based on received EOIs, that meets the conditions. The Bank will arrange the simultaneous publication of all REOIs prepared and submitted by the project on the Bank's external website.

- (c) The short list of selected consultants (who are assessed to be equally competent and qualified), will comprise of 6 (six) firms with a wide geographic spread with: (i) no more than two firms from any one country unless there are no other qualified firms identified to meet this requirement; and (ii) at least one firm from a developing country, unless no qualified firms from developing countries are identified. When any of the above requirements cannot be met on the basis of received EOIs, the project may directly solicit interest from qualified firms based on its own knowledge, or request Bank assistance in accordance with paragraph 1.17¹² of Consultant Guidelines. The short list can comprise entirely of national consultants if the value of the assignment is less than US\$ 800,000 equivalent. However if foreign firms express interest they will not be excluded from consideration.
- (d) The short list should normally comprise consultants of the same category with similar business objectives, corporate capacity, experience and field of expertise, and that have undertaken assignments of a similar nature and complexity. Government-owned enterprises or institutions and not-for-profit organizations (NGOs, Universities, UN Agencies, etc.) should not normally be included in the same short list along with private sector firms, unless they operate as commercial entities and meet the requirements given in the following paragraph. If mixing is used, the selection should normally be made using Quality-Based Selection (QBS) or Selection Based on the Consultants' Qualifications (CQS) (for small assignments). The short list will not include Individual Consultants.
- (e) Government owned enterprises or institutions in India may participate only if they meet the eligibility criteria that they (i) are legally and financially autonomous; (ii) operate under commercial law; and (iii) are not dependent agencies of the DoT/SPCU and the project implementing entity(ies). To be eligible, a government owned enterprise or institution will establish that it (i) is a legal entity separate from the government; (ii) does not currently receive any subsidies or budget support; (iii) operates like any commercial enterprise and inter alia is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to

¹² Under exceptional circumstances, the Bank may assist the DoT, GoUP in creating shortlists or long lists of firms that the Bank expects to be capable of undertaking the assignment. The provision of such lists does not represent an endorsement of the consultants. The DoT, GoUP retains the responsibility to verify the eligibility and qualifications of the listed firms, and may delete any name or add other names as it wishes.

be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.

7.4 Request for Proposal (RFP)

7.4.1 RFP Document

The RFP document for procurement of consultants is what a bid document is for procurement for goods and works. RFP provides the instructions and information necessary for the short listed consultants to prepare their proposals, and the proposed type of contract. RFP includes the following:

- Letter of Invitation (LOI) (providing the details of the SPCU, sources of funds, names of short listed consultants, the consulting assignment, method of selection, dates and time by which the proposals are to be submitted etc.);

- Instructions to the Consultants (including evaluation process, evaluation criteria and sub-criteria and their relative weights, minimum qualifying marks, estimated staff man months or the estimated budget, qualification and experience of key personnel etc.), and Data Sheet;

- Standard Forms for Submission of Technical Proposal;

- Standard Forms for Submission of Financial Proposal;

- Terms of Reference (TOR);

- Standard Forms of Contract (including General Conditions of Contract (GCC), Special Conditions of Contract (SCC) and Appendices).

The Bank's Standard RFP document will be used with minimum changes required to address the project specific conditions, and the changes will be introduced only through Data Sheet and SCC.

7.4.2 Receipt and Opening of Proposals

Enough time should be allowed for the consultants to prepare their proposals. The time allowed will depend on the complexity of the assignment, but normally it will not be less than four weeks or more than three months. During this interval, the firms may request clarifications about the information provided in the RFP. The DoT/SPCU and the project implementing entity(ies) will provide these clarifications in writing to all firms on the short list, without identifying the source of the query. The technical and financial proposals will be submitted at the same time¹³, in separate sealed envelopes. A committee of officials of the project drawn from the relevant departments (technical, finance, legal, as appropriate), will open all technical proposals received by the deadline for the submission of proposals. Proposals received late will be rejected and returned unopened. The financial proposals will remain sealed and will be kept in safe custody until their opening at a later point of time.

¹³ Except under QBS, in which case RFP specifies whether financial proposal will be submitted along with the technical proposal or will be submitted subsequently.

7.4.3 Clarification or Alteration of Proposals

Consultants will not be permitted to alter their proposals in any way after the deadline for the submission of proposals. The proposals will be evaluated on the basis of what has been submitted. The Evaluation Committee should not seek clarifications or additional information from the consultants that could change the substance of the proposal. Material issues to be clarified with the selected consultant will have to be discussed during negotiations.

7.5 Evaluation of Proposals: Quality & Cost

7.5.1 Evaluation of Quality

- (a) The evaluation of the proposals will be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals will not have access to the financial proposals until the technical evaluation is concluded. Financial proposals will be opened only thereafter.
- (b) An evaluation committee of at least 3 (three), and normally no more than 7 (seven) members including qualified specialists in the sector of the assignment and one or two members of the team responsible for preparation of the TOR will evaluate the technical proposals. The members of the committee will not be in a conflict of interest situation, and will undertake the evaluation process with the highest ethical standards. The evaluation of technical proposals will be done as per criteria specified in the RFP. The RFP will also specify the overall minimum technical score below which a proposal will be rejected as nonresponsive. The indicative range for the overall minimum technical score is 70 to 85 (seventy to eighty-five) out of 100 (one hundred). The maximum score for each criterion and the minimum overall technical score will be determined based on the nature and complexity of the specific assignment. The following criteria are usually stipulated for evaluation of technical proposals:
 - Specific experience of the consultant relevant to the assignment;
 - Adequacy of proposed methodology and work plan in responding to the TOR; and
 - Key staff's qualification and competence for the assignment.
- (c) Depending on the particular requirements of the assignment, following additional criteria may be specified:
 - Suitability of the transfer of knowledge (training); and
 - Participation of nationals among proposed key staff.
- (d) The criteria stipulated will be within the indicative range of points specified in Table 8 below for each criterion on a scale of 1 to 100. The weights may be adjusted for specific circumstances in consultation with the Bank. The maximum

score for participation by national experts will not exceed 10 (ten).

Table 8: Point Distribution of Evaluation Criteria for Technical Proposals

Evaluation Criteria	Points (Weights)
Specific experience of consultants/firm	20 to 40
Adequacy of the proposed methodology and work plan	20 to 40
Qualification and competence of key staff	30 to 50
Suitability of the transfer of knowledge program (training) – optional	0 to 10
Participation by national experts (to be included only for assignments where short lists include foreign consultants)	20 to 30
Total	100

- (e) These criteria will normally be divided into sub-criteria. Each criterion will then be scored on the basis of the weights assigned to respective sub-criteria. For example, sub-criteria under methodology might be innovation and level of detail. The number of sub-criteria should be kept to the essential, and should not be exceedingly detailed, which may reduce the evaluation to a mechanical exercise rather than a professional assessment of the proposals.
- (f) Table 9 below suggests five evaluation criteria provided in the RFP along with examples of sub-criteria that may be adopted.

Table 9: Evaluation Criteria and Sample Sub-criteria

Evaluation criteria (as defined in the Consultant Guidelines)	Evaluation sub-criteria (select a maximum of three)
Specific experience of the consultants in the field of assignment	As per the ToR qualifications
Adequacy of the proposed methodology and work plan in responding to the TOR	Technical approach and methodology Work plan Organization and staffing Note: The number of sub criteria may be increased depending on the characteristic and complexity of the assignment
Qualification and competence of key staff proposed for the assignment	General qualifications Adequacy for the assignment Experience in the region and knowledge of local context/language/etc.
Suitability of the transfer of knowledge program (training)	Relevance of program Training approach and methodology Qualifications of training specialists
Participation of nationals amongst the key staff	As per ToR qualification

- (g) Since the key experts proven experience in working on similar assignments

ultimately determine the quality of performance, more weight should be assigned to this criterion. The participation of nationals among key experts is calculated as the ratio of key national experts' time to the total number of key experts' time (person-months) in the proposal. The evaluation of key experts is carried out based on the qualifications and experience of proposed key experts 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 should be rated on the following three sub-criteria, as relevant to the task:

Sub-criteria	Range of Percentage
General qualifications	20-40
Adequacy for the assignment	60-80
Experience in region and knowledge of context	10-20
Total	100

(h) The methodology and work plan is a key component of the technical proposal and should be evaluated carefully. Sub-criteria for evaluating this component of the proposal should include the following

- **Technical Approach & Methodology:** The consultants explain their understanding of the objective of the assignment, highlight the issues and their importance, and explain the technical approach they would adopt to address them. Further the consultants explain the methodology they propose to adopt, and demonstrate the compatibility of these methodologies with the proposed approach.
- **Work Plan:** The consultants propose the main activities of the assignment, their content and duration, phasing and inter relations, milestones and delivery dates of the most important reports. The consistency of the technical approach and methodology with the proposed work plan is a good indication that consultants have understood the TOR and are able to translate them into a feasible working plan.
- **Organization and staffing:** The consultants propose the structure and composition of their team. It will list the main disciplines involved, the key experts and proposed technical and support staff. The roles and responsibilities of key experts should be set out in the job description.

The methodology, work plan, and organization are all integrated. The work plan depends on the technical approach and methodology adopted, and these in turn determine the required organization.

The members of the Evaluation Committee will evaluate proposals in accordance with the evaluation criteria specified in the RFP, independently of each other, and without any external influence. After each committee member has independently completed the evaluation, the Evaluation Committee should meet to review, and if necessary discuss the merits of, individual evaluations and scores. Some evaluators tend to be generous while others will be rigid in their judgment and ratings. Such disparity does not matter, provided each evaluator is consistent and

differences in scores are not too large. Large differences should be reviewed and explained since they often are caused by improper or inaccurate use of the rating system. As a result of these discussions, a committee member may revise some of his or her ratings and scores if necessary; these changes should be recorded. For each proposal, the Evaluation Committee should then calculate the average of the scores allocated by all members under each criterion, and establish the technical ranking of the proposals. The evaluation report must include the joint as well as the individual evaluations.

- (j) A proposal will be rejected if it fails to achieve the overall minimum technical score specified in the RFP. A Technical Evaluation Report in the Bank's standard form of evaluation report will be prepared. The report will substantiate the results of the evaluation and justify the total technical scores assigned to each proposal by describing the relative strengths and weaknesses of the proposals. Large differences in the individual scores given to a proposal for the same criterion or sub-criterion by different members will be addressed and a justification provided in the technical evaluation report. Care will be taken to ensure that no proposal is inconsistent with the Bank's rules (for example, a proposal that includes civil servants who are employees of the DoT/SPCU and the project implementing entity(ies)).

7.5.2 Notification to Consultants

After the Technical Evaluation Report is completed (and for prior review contracts, after the Bank has issued its no objection), the SPCU will inform consultants whose proposals did not meet the minimum qualifying technical score or were considered nonresponsive to the RFP and TOR that their financial proposals will be returned unopened at the end of the selection process. In addition, the SPCU will inform each of the above consultants of their overall technical score as well as scores obtained for each criterion and sub-criterion if any. The SPCU will simultaneously notify the consultants that have secured the minimum overall technical score of the date, time, and place set for opening the financial proposals. The opening date will be set allowing sufficient time for consultants to make arrangements to attend the opening of the financial proposals.

7.5.3 Opening of Financial Proposals & Evaluation of Cost

- (a) On the date and time set for opening the financial proposal, the financial proposals are opened after verifying that the financial proposals have remained sealed. In case of e-procurement, the system unlocks the financial proposals at the specified time. The financial proposals will be opened in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical scores, including the break-down by criterion, and the offered total prices will be read aloud (and posted online when electronic submission of proposals is used) and recorded as each financial proposal is opened. The SPCU will also prepare the minutes of the opening and a copy of this record will be promptly sent to all consultants who submitted proposals (or posted on the e-procurement portal), and to the Bank in prior

review cases.

- (b) The financial proposals will then be evaluated and compared as per the following procedure. In case some prices have been quoted in foreign currency as per the provisions of RFP, all prices will be converted to Indian Rupees by using the selling (exchange) rates for those currencies. For this purpose, the source of the exchange rate to be used and the date of that exchange rate will be as specified in the RFP (the date will not be earlier than four weeks prior to the deadline for submission of proposals, nor later than the original date of expiration of the validity of the proposals).
- (c) For a time-based contract, any arithmetical errors will be corrected, and prices will be adjusted if they fail to reflect all inputs that are included in the respective technical proposals. For a lump-sum contract, the consultant is deemed to have included all prices in its financial proposal, so neither arithmetical corrections nor any adjustments to price will be made, and the total price, net of taxes included in the financial proposal will be considered as the offered price.
- (d) For the purpose of evaluation, the offered prices will exclude local identifiable indirect taxes on the contract and income tax payable in India on the remuneration paid for services rendered in India by non-resident experts and other personnel of the consultant. The offered total price will include all consultants' remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest offered total price will be given a financial score of 100 (one hundred) and other proposals will be given financial scores that are inversely proportional to their prices.

7.5.4 Combined Quality and Cost Evaluation

- (a) If QCBS is the method of selection, the total score is obtained by weighting the quality and cost scores and adding them. The weight for the "cost" will be chosen, taking into account the complexity of the assignment and the relative importance of quality. The weight for cost will normally be 20 (twenty) points out of a total score of 100 (one hundred). The proposed weightings for quality and cost will be specified in the RFP. The firm obtaining the highest total score will be invited for negotiations. In prior review cases the final evaluation report along with the recommendation of the successful consultant, will be sent to the Bank for information.
- (b) After technical and financial negotiations are completed (the scope of negotiation is given in the following paragraph), the SPCU will furnish to the Bank for prior review cases, in sufficient time for its review, a copy of initialed negotiated contract. If the negotiated contract results in substitution of key staff or any changes in TOR and in the originally proposed contract, the SPCU will also highlight the changes and provide an explanation as to why these changes are necessary.
- (c) In cases of other methods of selection (QBS, FBS, LCS, CQS), the technical,

financial and combined evaluations will differ from the above to the extent explained under each of the methods. For example (i) under QBS, the technical proposals are evaluated as in QCBS, the firm with highest ranked technical proposal (scoring more than the stipulated minimum qualifying technical score) is selected, and its financial proposal only will be opened and evaluated; (ii) Under FBS, the technical and financial proposals are evaluated as in QCBS, the proposals that exceed the indicated budget will be rejected, and the consultant who has submitted the highest ranked technical proposal among the rest will be selected; (iii) under LCS after evaluation of the technical and financial proposals as in QCBS, the firm with the lowest evaluated price will be selected; and (iv) under CQS, only the selected firm is asked to submit a combined technical and financial proposal, and the firm is selected if such proposal is responsive and acceptable.

7.6 Negotiations

- (a) Negotiations will include discussions of TOR, the methodology, staffing, SPCU's input and special conditions of the contract. These discussions will not substantially alter the original scope of services under the TOR or the terms of the contract. The final TOR and the agreed methodology will be incorporated in the "Description of Services" which will form part of the contract.
- (b) 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. If this is not the case and if it is established that key experts were included in the proposal without confirming their availability, or the justification is unacceptable or the substitute does not have qualifications and experience equal to or better than those of the key expert initially proposed, the firm may be disqualified and the process continued with the next ranked firm.
- (c) Financial negotiations will include clarification of the consultant's tax liability in the SPCU's own country and how this tax liability has been or would be regulated in the contract.
- (d) If the selection method for a lump-sum contract included cost as a factor in evaluation, the offered price will not be negotiated. In Time Based Contracts, when the selection method includes cost as a factor in evaluation, negotiations of experts' rates will not take place, except in special circumstances such as when experts' rates offered are much higher than typically charged rates by consultants for similar contracts. In such a case, the prohibition of negotiation does not preclude the right of the SPCU to ask for clarifications, and if the fees are very high, to ask for their change, after due consultation with the Bank. Reimbursable are paid on actuals, upon presentation of receipts and hence not subject to negotiations. If the SPCU wants to fix a ceiling, it should indicate the ceiling in the RFP.
- (e) If negotiations with the highest ranked consultant fail, negotiations may be

terminated after giving the consultant a final opportunity to respond in writing on pending issues and disagreements, and the next ranked consultant invited for negotiations. Once negotiations have commenced with the next ranked firm, the SPCU will not reopen the earlier negotiations. After negotiations are successfully completed and in prior review cases the Bank has issued its no objection to the initialed negotiated contract, the SPCU will promptly notify other firms on the short list that they were unsuccessful.

7.7 Rejection of all Proposals

All proposals may have to be rejected under the following circumstances:

- All the proposals are non-responsive because they fail to respond to important aspects of the TOR or present major deficiencies in complying with TOR;
- All proposals fail to achieve the minimum technical score specified in the RFP;
- The offered price of the successful proposal is substantially higher than the estimated budget or recently updated cost estimate. In this case, the feasibility of increasing the budget or scaling down the scope of services with the firm should be investigated, before considering re-invitation.

The SPCU will review the causes leading to the rejection and make a review of the RFP, the TOR and the cost estimates as well as the short list. In prior review cases, Bank's 'no-objection' will be obtained, before proceeding with rejection of all proposals and re-invitation, and proposed revisions will be agreed with the Bank.

7.8 Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards will 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 wherever specified otherwise in the above paragraphs, for example notification of result of technical evaluation to the consultants.

7.9 Types of Commonly Used Consultancy Contracts

7.9.1 General

The two most common types of contracts are (a) lump sum contract; and (b) time-based contract. Considerations that determine the type of contract to be adopted include:

- The nature of the assignment; and
- The distribution of risks between the SPCU and consultant.

7.10 Lump Sum Contract

7.10.1 Features

Under lump sum contracts, payments are linked to outputs (deliverables) and the SPCU

agrees to pay to the consultant a fixed sum of money for the services rendered such as the preparation of a study report, project design, bid document, drawings, bill of quantities etc. to be delivered within a specified time period. Lump sum contracts are easier to administer because they operate on the principle of a fixed price for a fixed scope, and payments are due on clearly specified outputs and milestones. Nevertheless, quality control of the consultant's outputs by the SPCU and implementing entity(ies) is paramount. The risks of cost overruns are borne by the consultant. In lump sum contracts, the consultant is deemed to have included all prices in its financial proposal, hence neither arithmetical corrections nor adjustments in price will be made for failure to reflect all inputs, and the total price net of taxes included in the financial proposal will be considered as the offered price.

7.10.2 Where Best Suited

Lump sum contracts are best suited for assignments in which the content and duration of the services and the expected output of the consultants are clearly defined.

7.10.3 Examples

Examples of lump sum contracts include:

- Planning and feasibility studies;
- Environmental studies;
- Detailed design of standard or common structures;
- Preparation of databases;
- Surveys;
- Cases of sophisticated and clear cut assignments of short duration in which external factors generally are not expected to influence (delay or substantially change) the outcome of the advice or study being provided.

7.11 Time-Based Contract

7.11.1 Features

Under this type of contract, the consultant provides services on a timed basis according to quality specifications, and the consultant's remuneration is determined on the basis of the time actually spent by the consultant in carrying out the services, and is based on:

- Agreed staff month remuneration rates multiplied by the actual time spent by the experts in executing the assignment;
- Reimbursable expenses using actual expenses or agreed unit rates.

Time-based contracts transfer financial risks to the SPCU. The SPCU has to closely monitor and administer the assignment to ensure that the assignment is progressing satisfactorily and that payments claimed by the consultants are appropriate. In case of time-based contracts, any arithmetical error in the financial proposal will be corrected, and prices will be adjusted if they fail to reflect all inputs that are included in the respective technical proposals.

7.11.2 Where Best Suited

Time-based contracts are usually adopted for the following type of assignments:

- When it is difficult to define or fix the scope and duration of the services as the assignments are complex or unusual (such as management of complex institutions or studies of new approaches);
-
- The duration and quantity of resources (staff months) depend on variables that are beyond the control of consultants or the services are related to the activities undertaken by third parties (e.g. supervision of construction contracts);
-
- The input of the consultants required for attaining the objectives of the assignment is difficult to assess (e.g. technical assistance, organization development, emergency situations in which the SPCU's needs for assessment may evolve only as the assignment progresses);
-
- Capacity building programs.

A ceiling on the value of a time-based contract is usually stipulated, which is revised by mutual agreement, with a change in scope of the services or the extension of the period of contract or both. Price adjustment of the staff month rates and unit rates of reimbursable expenses is also incorporated in the contract if its duration is expected to exceed 18 months.

7.11.3 Examples

Examples of time-based contracts include:

- Critical studies in the field of policy and strategy
- Management of institutions
- Country economic, sector or investment studies
- Masterplans
- Prefeasibility and complex feasibility studies
- Studies or design of complex projects
- Studies in new technology or human and social sciences
- Construction supervision
- Technical assistance in investment projects
- Technical assistance for privatization programs

7.12 Other Important Provisions

7.12.1 Currency

In case foreign consultants are shortlisted, RFPs will clearly state that firms may express the price for their services in any fully convertible currency, or a combination of up to three foreign currencies. The consultants will be asked to state the portion of the price representing local costs in Indian Rupees only. Payments under the contract will be made in the currency or currencies in which the payment is requested in the proposal.

7.12.2 Price Adjustment

A price adjustment provision will be included in the contract if its duration is expected to exceed 18 (eighteen) months. Time-based contracts of a shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable. Lump sum contracts will not generally be subject to automatic price adjustment when their duration is expected to be less than 18 (eighteen) months, except for small-value multi-year contracts (for example, with auditors). The price of a lump sum contract may be exceptionally amended when the scope of the services is extended beyond what was contemplated in the original TOR and contract.

7.12.3 Payment Provisions

Amounts to be paid, schedule of payments, and payment procedures will be agreed upon during contract negotiations. Payments may be made at regular intervals under time-based contracts and for agreed outputs under lump sum contracts. Advance payments, if any, will be secured by an advance payment security or guarantee.

7.12.4 Proposal and Performance Securities, and Liquidated Damages

Proposal security (earnest money) and performance securities will normally not be requested, and will be used in consultation with the Bank only in exceptional circumstances. Since their enforcement is often subject to judgment calls, they can be easily abused, and only tend to increase the costs without evident benefits. Further, because the timely delivery of services of an intellectual and advisory nature is contingent in many ways upon actions by the SPCU, the application of liquidated damages for delays is not recommended for consulting services.

7.12.5 SPCU's Contribution

The DoT/SPCU and the project implementing entity(ies) may assign members of their own professional staff to the assignment in different capacities. The contract between any of them and the consultant will give the details governing such staff, known as counterpart staff, as well as facilities that will be provided by the DoT/SPCU and the project implementing entity(ies), such as housing, office space, secretarial support, utilities, materials, and vehicles.

7.13 Evaluation Process

- (a) Selection of consultants is the responsibility of the SPCU and the Bank does not participate in the evaluation of proposals but, upon request of the SPCU, the Bank may provide advice on methodology and selection procedures before the actual evaluation takes place.
- (b) In assignments in which prior review is required, the Bank reviews the Technical Evaluation Report, and if satisfied, provides its no objection to the SPCU. The

Bank may request additional explanation or information about the report or contents from the SPCU when necessary. In exceptional cases, the Bank may ask the SPCU to submit one or more proposals for its review.

- (c) If the Bank determines that the final evaluation report, recommendations for award and/or negotiated contract are inconsistent with the provision of RFP, it will promptly inform the SPCU and state the reason for its determination, otherwise, the Bank will provide the final “no objection” to the contract award. The SPCU will confirm the award and sign the contract only after receiving the no-objection of the Bank. The description and amount of the contract, together with the name and address of the firm, will be publicly disclosed by the Bank upon the SPCU confirmation of contract award.

7.14 Contract Award

After negotiations are concluded, the contract will be prepared and should include the following:

- Negotiated TOR, including the scope of work of the services, agreed on methodology, organization chart, and program of activities indicating dates for completion of various tasks;
- List of reports indicating format, frequency, content, submission dates and approval procedures;
- Job description of key personnel and the staffing schedule;
- List of services, facilities, counterpart personnel to be made available by the SPCU, also the timing for the provision of such services, facilities;
- Estimated contract amount in specified currency indicating staff man month rates and reimbursable expenses;
- Detailed capacity-building program (if this is a specified requirement of the TOR);
- The contract as per the standard format including duly completed appendices.

In prior review cases, a copy of the signed contract will be forwarded to the Bank for review and record along with the completed checklist.

7.15 Contract Performance

7.15.1 Monitoring

The SPCU/IE must closely monitor the performance of the contractors and consultants. This can be done by keeping track of the submission of deliverable/outputs. The reports as submitted by the consultants should be reviewed by a specially constituted review committee which should forward its approval/comments (soon after the receipt of the same) to the consultant for compliance and resubmission if necessary.

7.15.2 Amendments/ Modifications of the Signed Contracts

With respect to prior review cases, the SPCU will obtain prior no objection of the Bank before:

- Granting an extension of the stipulated time for performance of a contract;
- Any substantial modification of the scope of the services, substitution of key experts or other significant changes to the terms and conditions of contract; or
- The proposed termination of the contract.

A copy of all the amendments to the contract will be furnished to the Bank for its record.

7.15.3 Disputes

Sufficient efforts should be made to resolve disputes amicably. Unresolved disputes will be treated as per provisions in the contract. Consultants' contracts will always include a clause for settlement of disputes. International commercial arbitration in a neutral venue will be provided in contracts awarded to foreign consultants. The Bank will not be named an arbitrator or be asked to name an arbitrator.

7.15.4 Poor Performance

In case of poor performance by one or more of the key staff of the consultant, poor performance should not be allowed to continue beyond a certain point, and the consultant should be informed immediately to improve the performance and/or replace the key staff member(s), as per provisions in the contract. If the consultant does not comply or improve his performance adequately, action for termination of the contract can be taken. Depending on the quality of the performance of the consultant, the SPCU may decide not to include the consultant in the short list for future assignments under the project and/or make recommendations to GoUP and the Bank for debarring the consultant for a specified period (in cases of serious lapses or indulging in fraudulent practices).

7.15.5 Delays

If the assignment is not completed within the stipulated completion period due to any reason whatsoever, the consultant will request an extension of time. In addition to an extension of time, a change (increase or decrease) in the cost of the consultancy contract may also become necessary on account of modification in description of services, extension of time due to change in description of services or where consultant services are dependent upon the performance of a third party, etc. The consultant's request should be examined in terms of the stipulations made in the contract, and if satisfied with the request, the SPCU will amend the contract accordingly.

7.15.6 Completion of Assignment

The SPCU will review the draft deliverables/outputs as per the contract and communicate its approval/comments to the consultants. The consultants will promptly comply with the comments and submit the final deliverable/output. After receipt and clearance of the same, final payments are made and the contract is closed.

7.16 Type of Assignments, Suggested Selection Method and Type of Contracts

Table 10 below indicates the correlation between type of assignment, selection method and type of contract. They should be considered with some degree of flexibility, depending on the size and characteristics of the assignment.

Table 10: Correlation between Type of Assignment, Selection Method, and Type of Contract (for guidance only)

Type of assignments/scope of work	Selection method	Type of contract
Critical studies in the field of policy, strategy, and management of SPCU's institutions Country economic, sector, or investment studies Master plans Pre-feasibility studies Complex feasibility studies Studies or design of complex projects Studies in new technology or human and social studies	QBS	Time –based
Simple planning studies Simple feasibility studies Environmental studies Contract and detailed design of infrastructures Preparation of bidding documents Data processing Clearly defined strategy and management studies	QCBS	Lump sum
Technical assistance for institutional development	QBS or QCBS	Time-based or indefinite delivery
Technical assistance in investment projects Construction supervision Procurement/ inspection Simple, precisely defined assignment with fixed budget Standard or routine assignments	QCBS QCBS QCBS FBS LCS	Time–based Time-based Percentage Lump sum Lump sum

7.17 Contracts

The contract invariably comprises of:

- The form of contract to be signed by the SPCU and the consultant,
- The (General Conditions of Contract) GCC, which must be kept unchanged,
- The (Special Conditions of Contract) SSC specific to the assignment, and
- The Appendices.

It should be noted that the text of the Form of Contract and of the General Conditions of Contract (GCC) cannot be changed. The Special Conditions of Contract (SSC) enable the SPCU to amend or supplement the clauses of the general condition to reflect the specific

conditions of the assignment. The Appendices should be carefully and completely prepared, as these contain significant information that is useful during contract implementation, and extension of contract if required.

7.18 Use of Non-Governmental Organizations

Non-governmental organization (NGOs) may be included in the consultant short list if they express interest, provided the SPCU and the Bank find their qualification satisfactory. Short lists for assignments that emphasize experience in community participation and in depth local knowledge may entirely comprise NGOs. If so, an appropriate selection method (QCBS, FBS, LCS or CQS) based on the nature, complexity and size of assignment will be followed. The evaluation criteria will reflect the unique qualifications of NGOs such as local knowledge, scale of operation and prior relevant experience. NGOs can also be selected on a single source basis provided the criteria for Single Source Selection is fulfilled.

Short listing of NGOs may be based on below noted criteria:

- Regulatory requirement
 - NGO should be validly registered under Societies Registration Act or have other corporate status
 - NGO should be validly registered to work in the particular geographic area/ locality
 - NGO's Article of Association or Bye laws permit, operation in the project sector
 - NGO should be non-political
- Human and physical measures
 - ▷ Committed leadership at the top supported by adequate service level leadership
 - Existence of adequate skilled staff in relation to needs of assignment
 - Necessary physical resource base like accessible office space, vehicles, communication facilities and so on
- Community sensitivity
 - ▷ NGO should have prior experience of community development activity and mobilization
 - NGO should have sufficient understanding of local problems and should be sensitive to issues concerning women and disadvantaged sections of society
 - NGO should have keen understanding and should be sensitive to works related to environment
 - Should have excellent communication skills
- Financial capacity
 - Should have required financial strength and capability (last three years turn over and audited balance sheet should be examined)
 - Should have facility to maintain separate records and accounts of funds allotted for the assignment
- Relevant sectoral and operational experience
 - ▷ Should have prior experience in related areas

- o Must have been functioning for last three years in similar types of assignments

RFP should be issued to short listed NGOs and their technical and financial proposals will be evaluated and contract signed after following the same procedure as for other consultants. NGOs can also be selected on single-source basis, provided the criteria outlined in paragraph 3.9 of Consultant Guidelines are fulfilled.

7.19 Publication of Award of Contracts

The project will publish information (i) on UNDB online for all contracts when the short list included any foreign firm and all single source selection contracts awarded to foreign firms, and (ii) on the project website all contracts where the short list comprises only national firms and all single source selection contracts awarded to national firms. Such publication will be within two weeks after receiving the Bank's no-objection for award of the contract for prior review contracts and within two weeks of successful negotiations with the selected firm for contracts subject to Bank's post review. Publications will include the following information as relevant and applicable for each method:

- The names of all consultants in the short list specifying those that submitted the proposals;
- The overall technical scores and scores assigned for each criterion and sub-criterion to each consultant;
- The prices offered by each consultant as read out and as they have been evaluated;
- The final combined scores and final ranking; and
- The name of the successful consultant and the total price, duration and summary scope of the contract.

Same information will be sent to all consultants who submitted proposals. The Bank will arrange the publication of the award of contracts under prior review on its external website upon receipt from the project of a conformed copy of the signed contract.

7.20 Disclosure

The following documents will be disclosed on the project/DoT website:

- (i) Procurement Plan and all updates;
- (ii) Requests for expressions of interest for selection/hiring of consultants;
- (iii) Short list of consultants;
- (iv) Contract award of all consultancy services;
- (v) List of contracts following CQS or SSS on a quarterly basis; and
- (vi) Action taken report on the complaints received on a quarterly basis.

The following details will be sent to the Bank for publishing on the Bank's external website and UNDB in addition to publishing it on the project/DoT website:

- (i) Latest approved Procurement Plan;
- (ii) Request for expression of interest for consulting services with estimated cost more than US\$ 300,000;

- (iii) Contract award details of all consultancy services with estimated cost more than US\$ 300,000;
- (iii) List of contracts/purchase orders placed following CQS or DC procedures on a quarterly basis.

The SPCU will also publish on the project/DoT website, any information required under the provisions of suo moto disclosure as specified in the Right to Information Act.

7.21 Debriefing

In the publication of contract award, the DoT/SPCU and the project implementing entity(ies) will specify that any consultant who wishes to ascertain the grounds on which its proposal was not selected should request an explanation from the DoT/SPCU and the project implementing entity(ies). The DoT/SPCU and the project implementing entity(ies) will promptly provide in writing an explanation of why such proposal was not selected. If a consultant requests a debriefing meeting, the consultant will bear all their costs of attending such a debriefing meeting.

If the consultant is not satisfied with the written explanation given and/or debriefing by the DoT/SPCU and the project implementing entity(ies), and wishes to seek a meeting with the Bank, it may address the Governance Global Practice Manager for India, who will arrange a meeting at the appropriate level and with the relevant staff. The purpose of such meeting is only to discuss the consultant's proposal, and neither to reverse the Bank's position that has been conveyed to the DoT/SPCU and the project implementing entity(ies) nor to discuss the proposals of competitors.

8. Reviews by the Bank

8.1 General

The Bank undertakes prior review for procurement process at all stages and also undertakes post review to ensure that Guidelines of the Bank are being strictly complied with and that proper procedures are being followed at each stage. Brief detail of such review in respect of procurement of goods, works, non-consulting and consulting services is given in the following paragraphs. The prior review thresholds for the project are given in **Table 11**. However, given that this is the first time that the DoT, GoUP is implementing a Bank-assisted project as well as the nature of some proposed subprojects, the Bank will undertake prior review of procurement of works, goods, non-consulting and consulting services as seemed necessary and requested by DoT, GoUP.

Table 11: Prior review thresholds

Type of Procurement	Threshold level for Prior Review	INR Equivalent as Sep 2017
Works	All ICB contracts, and NCB contracts > US\$10.0 million equivalent	>Rs.65 Crore
Goods including IT	All ICB contracts, and NCB contracts > US\$2.0 million equivalent	>Rs.13 Crore
Framework Agreements: All contracts	Circumstances and justification for use of FA, approach and model adopted, procedure for selection of award, and terms and conditions of the contracts.	
Procurement from UN Agencies: All contracts	(i) Justification for use of UN Agency and draft form of agreement irrespective of value, and (ii) prior review if contract value exceeds prior review threshold	
Services (Non consultancy): All contracts	> US\$2.0 million equivalent	>Rs.13 Crore
Consultancy Services: All contracts	> US\$1.0 million equivalent for firms; and	>Rs.6.5 Crore
	> US\$300,000 equivalent for individuals	>Rs.1.95 Crore
Justification for LIB	All contracts	
Justification for Single-source and Direct contracting: All contracts	> US\$100,000 equivalent	>Rs.65 Lakh

Notes:

- (i) SPCU will prior review the first contract issued by each implementing entity, if the estimates of those contracts are below the Bank's prior review threshold;
- (ii) The Bank will prior review all Terms of Reference; and
- (iii) INR conversion has been considered at Rs.65/US\$. The US\$ values are to be used for determining the thresholds at the time of procurement.
- (iv) Value of the Contract includes all taxes and duties if payable under the contract.

8.2 Prior Review Requirements of the Bank

The Bank will review Procurement Plans prepared by the project and their updates . These will be consistent with the project implementation plan, the Financing Agreement and the Guidelines and applied also based on the complexity and sensitiveness around a proposed subproject or activity. The prior review thresholds are given in para 8.1 above.

8.2.1 Prior Review of Goods, Works and Non-Consulting Services' Contracts

Regarding contracts subject to prior review, the Bank's prior review and issue of no-objection is required for the following:

- Bidding documents including invitation for bids;
- Amendments to bidding documents;
- Pre-bid meeting minutes for information and Addenda for clearance;
- For the first request for extension of validity if it is for a period longer than 4 weeks, and all subsequent requests for extension irrespective of period.
- Bid evaluation report;
- Final contract(s) with checklists for World Bank Reference (WBR) number;
- Received protests or complaints from bidders and copy of proposed response
- Contract Amendments such as: (i) grant of a material extension of the stipulated time for performance of the contract; (ii) any substantial modification of the scope of services or other significant changes to the terms and conditions of the contract; or (iii) any variation order or amendment (except in cases of extreme urgency) which singly or combined with all variation orders or amendments previously issued, increase the original contract amount by more than 15 (fifteen percent); or (iv) the proposed termination of the contract.

8.2.1 Prior review of Consultancy Contracts

With respect to contracts which are subject to prior review, the Bank's prior review and issue of no-objection is required for the following:

- Terms of Reference (technical prior review);
- Proposed cost estimate;
- Short list of consultants; RFP document containing Letter of Invitation, Information to Consultants, Formats for submission of Information, and Conditions of Contract;
- Received complaints from consultants and copy of proposed response;
- Amendments to RFP if any;
- Pre-proposal meeting minutes for information and Addenda for clearance;
- For the first request for extension of validity if it is for a period longer than 4 weeks, and all subsequent requests for extension irrespective of period.
- Evaluation report of the technical proposals;
- Combined evaluation report (for QCBS) only for information;
- Minutes of negotiation and negotiated initialed draft contract with all appendices;
- Contract amendments such as (i) grant of an extension of the stipulated time for performance of a contract; (ii) any substantial modification of the scope of the

- services, substitution of key experts or other significant changes to the terms and conditions of the contract; or (iii) the proposed termination of the contract;
- Final contract for issue of WBR number.

8.3 Post Review Requirements of the Bank for Goods, Works, Non-Consulting and Consulting Services' Contracts

All contracts below the specified prior review threshold value will be subject to procurement post review (PPR).

The DoT will prepare a list of contracts and submit it to the World Bank for this purpose. The PPR will be conducted on an annual basis.

PPRs are normally carried out by the Bank on a sample of contracts that had not been prior reviewed. The implementing agencies will retain all documentation with respect to each contract during project implementation and up to two years after the closing date of the Financing Agreement. This documentation would include but not be limited to the signed original of the contract and all subsequent amendments or addenda, the bids, the bid evaluation report (in respect of goods, works and non-consulting services' contracts), the original proposals, the technical evaluation report and the combined evaluation report (in respect of consultancy contracts) and recommendations for award, contracts, payment invoices or certificates, (as well as the certificates for inspection, delivery, completion and acceptance of goods, works and non-consulting services) for examination by the Bank or its consultants/auditors. For consultancy contracts awarded on the basis of single-source selection, it will include the record of justification, the qualifications and experience of the consultants and the signed original of the contract. The project will also furnish such documentation to the Bank on request.

The Bank may declare misprocurement for any of the reasons provided in Para 1.14 of the Procurement Guidelines and para 1.19 of Consultant Guidelines, including if it determines that the contracts were not awarded in accordance with the agreed procedures and methods as reflected in the Financing Agreement and further detailed in the Procurement Plan to which the Bank gave its no-objection, or the contract itself is not consistent with such procedures and methods. The Bank will promptly inform the project authorities of the reasons for such determination. The Bank may also, depending on risks and the scope of the project (e.g. involving many small value and simple contracts) agree with the project authorities that they appoint independent entities to carry out PPRs in accordance with the terms, conditions, and reporting procedures acceptable to the Bank. In such cases the Bank will review the reports submitted by the project authorities and retain its right to directly conduct post reviews during project implementation as may be needed.

8.4 Change from Post Review to Prior Review

A contract whose cost estimate was below the Bank's prior review threshold indicated in

the Procurement Plan will fall under the prior review if the price of the lowest evaluated bidder exceeds the threshold. In such an event all related procurement documentation already processed including the bidding document, the evaluation report and recommendations for award will be submitted to the Bank for its review and issue of no-objection before the award of the contract. However, in case of prior review contract, if the price of the lowest evaluated responsive bidder recommended for award is lower than the prior review threshold, it becomes a post review contract and will continue to be a post review case to be reviewed by the Bank. Under certain circumstances, the Bank may require the project authorities to follow a prior review process for a contract below the Bank's prior review threshold in the case of a complaint that has been determined to be of a serious nature. Also when the procurement/selection method requires change due to higher or lower cost estimates than previously assessed, the Procurement Plan will be modified by the project authorities and submitted to the Bank for review and no-objection.

Annex - List of Documents, Formats Referred to in the Manual, that will be put on the Project/DoT Website

General

1. Approved Procurement Plan dated September 18, 2017 for Goods, Works, Equipment and Non-consulting and Consulting services, and all updates to the Procurement Plan.
2. DoT Order No. 015/Pro-poor Tourism Project/2015 dated 7th July, 2015 detailing the composition and functions of the Evaluation Committee.
3. GPN issued for the Project

Goods, works and non-consulting services

4. Format of Invitation of Bids (IFB) National Competitive Bidding for Goods/Works (Manual and e-procurement);
5. NCB document for Works (Manual and e-procurement) estimated to cost less than \$1,000,000 equivalent (W-2 Small)
6. NCB document for Works (Manual and e-procurement) estimated to cost less than \$20,000,000 equivalent (W-2 Medium)
7. NCB document for Works (Manual and e-procurement) estimated to cost less than \$40,000,000 equivalent (W-2 Large)
8. NCB document for Works (Manual and e-procurement) estimated to cost less than \$100,000 equivalent (W-1)
9. Shopping Document for works estimated to cost less than US\$100,000 (W-5)
10. NCB Document for Works- Through Beneficiaries on Direct Contract Basis estimated to cost less than \$100,000 equivalent (W-6)
11. NCB document (Manual and e-procurement) for procurement of goods (E-1)
12. NCB document (Manual and e-procurement) for procurement of computer systems (E-4)
13. Shopping document (National) for goods (E-5)
14. Shopping document (International) for goods (E-11)
15. Suggested Format for preparation of pre-bid minutes;
16. Suggested Format for preparation of bid opening minutes;
17. Suggested Format for Bid Evaluation Report for Works to cost less than US\$100,000 (Manual and e-procurement Shopping);
18. Suggested Format for Bid Evaluation Report for Works (Manual and e-procurement NCB);
19. Suggested Format for Bid Evaluation Report for Goods to cost less than US\$100,000;
20. Suggested Format for Bid Evaluation Report for Goods and Equipment (ICB and NCB-Manual and e-procurement);
21. Format of Checklist to accompany Prior Review Goods or Works contracts;
22. Format for seeking Bank's clearance for rejection of bids and re-invitation for civil works/ goods;
23. Form I-A (Progress Report on Field Review Contracts);
24. Form I-B (Force Account);
25. Form I-C (National Shopping).

Consultancy

26. Sample Form for seeking Expression of Interest;
27. Standard Form of RFP;
28. Time Based Contract;
29. Lump Sum Contract;
30. Suggested Format for preparation of Evaluation report of Consultancy Proposals;
31. Format of Check list to accompany Prior Review Consultant contracts.