

# Good Procurement Practices for Official Development Assistance

## I. Transparency

### *Transparency in rules of procurement*

409. *Principle:* Members will make accessible, in appropriate detail, general procurement rules for their official development assistance to the recipients of their aid, to eligible suppliers and to other DAC Members.

### *Transparency in information on individual supply contracts*

410. *Principle:* Members will inform the recipients of their aid, at the time of the aid offer, of the procurement rules to be applied and of the eligible sources of procurement. With respect to individual contracts, interested and eligible national and foreign suppliers shall have equal and timely access to information on the nature of the goods and services to be procured and on applicable procurement rules.

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## II. International competitive bidding (ICB)

411. *Principle:* Members will consider the scope for enlarged use of international competitive procurement to the extent compatible with their procurement policies. In particular, they will encourage recipient countries, other donors and International Financial Institutions to develop proposals for co-financing and other co-operative financing arrangements providing for international competitive procurement and will consider such proposals positively.

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## III. National competitive bidding (NCB)

412. *Principle:* As a general rule (and unless ICB or other forms of international competition can be applied), Members will encourage the use of National Competitive Bidding as the main procedure for procurement under tied aid conditions. They will make explicit under which conditions they require the application of NCB and under which conditions they impose more stringent procurement procedures or permit more liberal procurement procedures. The bidding procedures under NCB should follow internationally recognised minimum standards (concerning information and pre-qualification of potential suppliers, content and publication of bidding documents, appraisal of bids and contract award). Procurement specifications should be stated in a non-restrictive manner to encourage the widest possible participation. There should be participation of at least three potential suppliers but if fewer than three responsive bids are received, award may be made to the lowest bidder if the price is reasonable.

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## **IV. Other procurement methods**

### *Informal competition*

413. *Principle:* If formal competitive bidding cannot be supplied — such as in the case of small order, repeat or high urgency procurement — informal competition may be achieved through price quotations from several national suppliers provided that price, quality, time of delivery, after-sales-service, and other relevant features of the contract are competitive at least by national standards. To maximise competition under these conditions, Members undertake: to ensure value for money by ascertaining that prices are reasonable taking fully into account all the other factors mentioned above; to award or finance contracts on the basis of good commercial practice and without discriminating against potential competent suppliers; and to give wide publicity to the opportunity of supply with the time limits for preparing quotations or offers long enough to allow meaningful competition by a sufficient number of suppliers.

### *Direct negotiations*

414. *Principle:* Members recognise that direct negotiation of contracts by donors or recipient countries with several suppliers or only one single supplier should be confined to exceptional cases. These may include procurement by a commercial importer of commodities with a registered brand name or by an authorised distributor of the supplier; repetition of supply of goods originally procured under competitive bidding, provided the complementary amount is small compared to the original supply and that the repetition takes place during or only shortly after the original supplies; standardization of equipment or spare parts; proprietary equipment obtainable only from one source. Good commercial practice will be followed and, to the extent possible, arrangements will be made to ensure that prices are reasonable, taking fully into account all the other relevant factors of the contract, such as quality, time of delivery and after-sales-service.

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## **V. Inspection of goods**

415. *Principle:* Members will take appropriate arrangements, whatever the procedure of procurement, to ensure that the quality of goods supplied and the timeliness of delivery are checked and payment to the contractor is made dependent on the results of the inspection. Appropriate contractual arrangements for such inspections will be made in the frame of the original supply contract.

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## **VI. Flexible application of national content rules and of rules of origin under tied and partially untied aid**

416. *Principle:* Members which have rules of origin or minimum national content rules will apply them flexibly, considering waivers if essential for the effective utilisation of aid. Waivers may be granted for example if the required goods are not available from the donor country, or only at prices exceeding considerably the price level for comparable goods procured elsewhere, and in cases of emergency. Members will make available to the recipients of their aid, to eligible suppliers and to other DAC Members, their

rules of origin and minimum national content rules as well as their criteria for granting waivers from these requirements. Members also undertake to apply flexibly their requirements that the suppliers meet certain national eligibility criteria.

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## **VII. Improving procurement capacity and practices of recipients**

### *Application of minimum procurement standards*

417. *Principle:* Members will ascertain that aid recipients apply minimum standards of competitive procurement procedures and will reserve the right to review procedures before a supply contract is awarded. For the administration of the procurement procedures, Members will, as appropriate, request that the purchaser engage an independent qualified consultant or procurement agent whose tasks include the preparation of the bidding documents, the evaluation of the bids, assistance to the purchaser in the contract award as well as in the drafting of, and negotiations on, the contracts.

### *Strengthening administrative capacity*

418. *Principle:* Members will explore with interested developing countries the scope for improving their procurement practices and institutions and will try to respond positively to requests by developing countries to train staff of their purchasing agencies.

## *Annex*

# **Minimum Conditions for Effective International Competitive Bidding**

419. The main purpose of International Competitive Bidding (ICB) is to ensure that recipient countries obtain value for money and to give all potential exporters an equal chance to enter bids in such a way that the importer can compare them objectively and is thus able to determine the optimal offer. In order for a procurement procedure to qualify as "effective international competitive bidding", the following minimum conditions must be fulfilled.

### ***Advertising***

420. Invitations to bid shall be advertised as timely and widely as possible. As a minimum, the official representatives from eligible source countries shall be given a description of the proposed procurement and a list of eligible source countries, together with information where the bidding documents can be obtained. This information shall be provided in one or more of the languages customarily used in international trade and shall also be advertised in at least one publication of general circulation in the recipient country.

### ***Size of contracts***

421. In order to foster widespread competition, individual contracts for which bids are invited should be of a size large enough to attract bids on an international basis. On the other hand, if it is possible to divide a project into contracts of a specialised character and such division is likely to be advantageous to the recipient and to allow broader international competitive bidding, the project should be so divided. However, procurement should not be deliberately broken down into small parts to avoid ICB. Single contracts for engineering, equipment and construction ("turnkey contracts") may be desirable if they offer overall technical economic and administrative advantages to the recipient.

### ***Pre-qualification of bidders***

422. To ensure that invitations to bid are only sent to capable suppliers, the donor and the recipient may agree on a pre-qualification of bidders, if they feel that this is advisable for large or complex works or specialised equipment. Pre-qualification should be based entirely upon ability to perform satisfactorily, taking into account the experience and past performance of the firm

with similar work, its capabilities with respect to personnel, equipment and plant, and its financial position and integrity. The provisions on "Advertising" (paragraph 420) apply also to invitations to pre-qualify.

### ***Bidding documents***

423. Bidding documents shall be prepared in one or more of the languages customarily used in international trade and should set forth clearly and precisely the work to be accomplished, the goods and services to be supplied, and the place of delivery or installation. The price to be paid to obtain the bidding documents should not exceed the cost of their production. The bidding documents, including the technical specifications, should be prepared in a manner which permits and encourages free and full international competition. To achieve this purpose, the bidding documents shall:

- a) Set out the proposed text of contract;
- b) Specify which national or international standards governing manufactured equipment and materials are acceptable and state that equipment and materials meeting other standards which ensure equivalent or higher quality than the standard specified will also be accepted;
- c) Include a statement that the purchaser reserves the right to reject all bids when none of them is responsive to the specifications, when there is evidence of insufficient competition, or when the lowest bid received exceeds the estimated value by an amount sufficient to justify such action;
- d) Set out the factors to be taken into account in evaluating and comparing bids. In addition to the price, they may include such factors as the time of delivery or construction, the efficiency of the equipment, the availability of service and spare parts, and the experience and reliability of the bidder. Such factors should be stated in the bidding documents and should be expressed in monetary terms, or given a relative weight in the evaluation provisions of the bidding documents;
- e) State the currencies in which bids may be expressed; they may include the donor's and recipient's currencies and others which are internationally traded; state the procedures for conversion to a common base for comparison;
- f) Include specifications based on performance capability; brand names may be used as part of the technical specification only to illustrate performance or design characteristics; if so used, the notation "or equal" must be used;
- g) Indicate the eligible source countries;
- h) State the source of finance;

- i) State the date, hour and place for latest receipt of bids and for the bid opening.

### ***Bids***

424. The time allowed for preparation of bids should be governed by the magnitude and complexity of the contract involved so as to ensure sufficient time to all suppliers to prepare and submit their bids.

425. All bids should be opened publicly at the time stipulated in the bidding documents. Bids received after this time should be returned unopened. The name of the bidder and total amount of each bid should be read aloud and recorded. No bidder shall be permitted to alter his bid after the bids have been opened. Only clarification not changing the substance or price of the bid may be requested or accepted by the recipient.

### ***Evaluation and comparison of bids***

426. The evaluation of bids shall be consistent with the terms and conditions set forth in the bidding documents. The evaluation should include a technical analysis to determine compliance with the technical specifications and to assign monetary values in accordance with any evaluation factors set out in the bidding documents and an analysis to determine compliance with the contractual terms set out in the bidding documents. Only bids from qualified bidders which are in compliance with technical and contractual terms of the bidding documents shall be considered responsive bids. Minor deviations which affect neither substance nor price, such as arithmetical or clerical errors, shall not make a bid unresponsive.

427. The prices quoted in the responsive bids shall be compared using the formula for the comparison of different currencies set out in the bidding documents. The comparison of bids to supply material and equipment shall be at prices free of duties, taxes and other import charges of like effect. A report on the evaluation and comparison of bids shall be prepared by the recipient or by its consultants and set forth the specific reasons on which the determination of the lowest evaluated bid is based and the reasons for disqualification of any bidder.

### ***Award of contract***

428. The award of a contract shall be made to the bidder whose bid has been determined to be the lowest evaluated bid, taking into account the factors mentioned in the preceding paragraphs; this need not necessarily be the lowest priced bid received. The successful bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or to modify his bid.

### ***Engagement of independent consultant***

429. For the administration of the procurement procedures, donors will generally request that the purchaser engage an independent qualified consultant whose tasks include the preparation of the bidding documents, the evaluation of the bids, assistance to the purchaser in the contract award as well as in the drafting of, and negotiations on, the contracts.