



**North American Development Bank**

## **Engagement of Consultants**

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## ENGAGEMENT OF CONSULTANTS

*This Note has been prepared by the North American Development Bank (the Bank) to assist staff and borrowers in the implementation of procurement for Bank-financed contracts consistent with the Bank's Procurement Policies and Procedures (the Policies).*

*This Note complements and should be consulted when using the Model Bidding Document: Request for Proposals (RFP) Consultant Services.*

### **Introduction:**

1. The use of consultants is an important part of the Bank's activities. In this, the Bank is expected to exercise due diligence to assure transparency in procurement, economic use of resources and high quality output from consultants.
2. This note covers the operational procedures for selecting and contracting services provided by both individual consultants and consulting firms. The procedures apply to all contracts for consulting services financed by the Bank, whether under a Bank loan or directly from the Bank's administrative budget.
3. The procedures involved in the selection and contracting process are described below. Model Bidding Documents: Request for Proposals (RFP) - Consulting Services to be used when requesting proposals complement this note.

### **Preliminary Steps:**

4. The engagement of a consultant will normally involve the following preliminary steps:
  - confirm the need for consulting services;
  - prepare Terms of Reference defining the scope and objectives of the assignment;
  - determine the estimated budget for the assignment;
  - determine the selection and contracting procedure.

### **Role of the Bank:**

5. The source of funding for an assignment determines the Bank's involvement in the engagement of consultants.
  - For contracts financed by the Bank's administrative budget, the Bank is the Executing Agency and, as such, engages the consultant.

- For contracts financed from Bank loans, the borrower is normally the Executing Agency and, as such, engages the consultant. The Bank is involved in reviewing and approving the selection and contracting process.

### **Selection Procedures:**

6. The selection procedures depend on the value of the contract for the services to be performed and whether the work is being placed under an Individual Services Contract or a Corporate Services Contract.
  - For contracts estimated to cost less than US\$50,000 with individuals or with firms, a qualified consultant may be selected directly, without the requirement to prepare a short list, and a contract negotiated with the selected consultant.
  - For contracts with individuals estimated to cost US\$50,000 or more, selection shall be made on the basis of an evaluation of short listed, qualified candidates and the rationale for the choice should be recorded.
  - Contracts with firms estimated to cost US\$150,000 or more, shall follow a competitive procedure based on invited proposals from a short list of qualified firms.
7. The procedure for selecting and contracting consultants will normally include the following steps. Some of these steps may be simplified or omitted, depending on the estimated value of the assignment. A fuller description of the steps listed below appears in the following subsections:
  - Finalizing the Terms of Reference
  - Preparing the short list
  - Requesting proposals
  - Evaluating proposals including qualifications and experience
  - Negotiating fees
  - Signing the contract
  - Supervising the contract and post-evaluating the assignment

### **Finalizing Terms of Reference (TOR):**

8. The Terms of Reference are designed to inform prospective consultants of the intended scope of work (ref. para. 21). Agencies involved in or affected by the assignment, including potential financiers, should agree on the objectives and scope of the proposed assignment with reference to the following factors:
  - background
  - objectives
  - scope of work, logistics
  - time schedule
  - facilities to be provided by the Executing Agency and/or local counterpart.

### **Preparing Long Lists:**

*This stage may be omitted for assignments with an estimated value of less than US\$50,000, and a qualified consultant may be engaged directly.*

9. When the estimated value of the assignment is US\$50,000 or more, it is necessary to prepare a long list of consultants with details of their experience and expertise.
10. For Corporate Services Contracts estimated to cost US\$50,000 or more, complex or specialized assignments, or a project involving a significant number of similar assignments, an advertisement shall be published requesting expressions of interest from qualified firms prior to preparing the long list.
11. Procedures governing procurement notices are detailed in the Bank's Procurement Note on the Preparation and Publication of Procurement Notices. It is important that the General Procurement Notice for Bank-financed projects describe proposed consultant assignments in some detail.
12. Review information on experience and expertise using available data. If necessary, request additional information. The long list should only include consultants qualified to perform the assignments.

### **Preparing Short Lists:**

*This stage may be omitted for assignments with an estimated value of less than US\$50,000, and a qualified consultant may be engaged directly.*

13. If the estimated value of the assignment is US\$50,000 or more, prepare a short list of firms, from the long list. Short lists should only include firms qualified to perform the assignment based on the agreed Terms of Reference.
14. A short list should comprise at least three, and normally not more than six, qualified consultants.
15. Wherever possible, short-listed consultants should be selected from a wide geographic spread.
16. In preparing a short list, qualified firms which have responded to a public notification should normally be given priority to the extent that their inclusion is consistent with the qualifying requirements and the objectives of a wide geographic spread.

## Evaluating Qualifications and Experience (Individual Service Contracts):

*This stage may be omitted for assignments with an estimated value of less than US\$50,000, and a qualified consultant may be engaged directly.*

17. The evaluation and ranking should be made on the basis of the qualifications and experience of the individual consultant only and, if associated with a firm, the competence and experience of the firm of employment should not be considered. Record the ranking in a memo with attached CVs and confirm the availability of the highest ranked candidate.

## Requesting Proposals:

*This stage may be omitted for Corporate Service Contracts with an estimated value of less than US\$50,000 and for Individual Service Contracts.*

18. For projects with an estimated value of US\$50,000 or more, invite proposals from those short-listed. The proposed fee basis (paras. 39 and 48), should normally be decided prior to the invitation for proposals and stated in the request for proposals.
19. A request for proposals should include:
  - Letter of Invitation
  - Terms of Reference
  - Supplementary Information
  - Draft Contract
20. **Letter of Invitation:** The Letter of Invitation should contain:
  - a brief description of the assignment
  - a reference to attachments (Terms of Reference, Supplementary Information, Draft Contract)
  - reference to selection procedures
  - estimated level of inputs or budget
  - invitation to visit project site
  - time allowed for submission
  - conflict of interest statement
  - proposals submission
  - request to attend interview during evaluation, if required
  - request for fax of acknowledgment
  - list of other firms invited to submit a proposal
  - validity period of proposal

- date of commencing assignment
- tax implications
- Executing Agency and/or local counterpart inputs (if any)

A draft Letter of Invitation is included in the Model RFP.

21. **Terms of Reference:** The Terms of Reference are designed to inform prospective firms of the intended scope of work. Reference should be made to the following factors:

- background (a reflection of the general situation in which the services are to be performed and a summary of previous work done relating to the project);
- objectives;
- scope of work, logistics, and timing (details of task to be performed, required expertise, estimated inputs and budget, outputs, reporting, reviews and time schedule);
- data, services, and facilities for consultants (local services, counterpart staff, facilities to be provided by the Executing Agency and/or local counterpart).

An outline for typical Terms of Reference is included in the Model RFP.

22. **Supplementary information for consultants:** The Supplementary Information package sent to consultants should include:

- guidelines on preparation of technical proposal
- guidelines on preparation of financial proposal
- notes on budget
- selection procedure and evaluation criteria
- negotiation structure

An outline of the Supplementary Information package for consultants, together with standard forms, are included in the Model RFP.

23. **Contract:** A Corporate Service Contract is used for retaining the services of a firm. Standard forms of contract should be used, with appropriate special conditions for the assignment in question.

### **Evaluating Proposals and Selecting the Consultant:**

*This step is normally not relevant for Corporate Service Contracts with an estimated value of less than US\$50,000 and for Individual Service Contracts.*

24. Where a formal Request for Proposals has been issued, arrangements should be made for the evaluation process prior to receipt of proposals. This should include the identification of the evaluation panel with provision for alternates.
25. The members of the evaluation panel should be knowledgeable in the field of the assignment. Independent experts are often retained as consultants to serve on evaluation panels.
26. Late proposals may be rejected and returned unopened.
27. The evaluation should follow the procedures and criteria outlined in the Request for Proposals, which may include the proposed price. Normally the technical proposals are evaluated and ranked prior to the opening and consideration of price proposals. The evaluation panel may include interviews of the highest ranking firms and the outcome of the interviews may be included in the evaluation. The evaluation and award recommendation should be recorded in an evaluation report prepared by the panel. Procedures for the evaluation of proposals are outlined in Annex I.
28. In addition to outlining the methodology followed, the comparison and ranking of proposals and the selection recommended, the evaluation report should identify any shortcomings in the highest ranked proposals and recommendations for improvements which can be discussed during negotiations.
29. Confirm the availability of the highest ranked firm. The selected firm should be invited for negotiations. Until negotiations are satisfactorily completed with the selected firm, the other firms should be requested to keep their proposals valid.

**Negotiating the Contract (Individual Service Contract):**

30. Negotiate the contract and fees and standard contract. Depending on the timing, availability, and location of the candidate, negotiations can be conducted and concluded by letter or fax.
31. **Fee structure (Individual Service Contract):** In general, all individual consultants are remunerated through fees and reimbursement of expenses.
32. In determining the fees for individual consultants the Bank follows the normal market practice of relating such fees to the comparable salaries paid to the Bank's own staff. However, there are a number factors which affect consultants' fee expectations:
  - the consultant has special expertise that commands a premium
  - the consultant must provide his own benefit program and social security
  - the consulting assignment has a relative short, fixed term
  - the consultant pays income tax

- the consultant may come from a country where the fee expectations differs from that typical in the U.S.A. or Mexico.
33. Contracts provide either a per diem amount to cover all subsistence expenses or require vouchers and receipts. In either case the amounts reimbursed depend on local conditions where the services take place, guided by the concept of reasonableness.

#### **Negotiating the Contract (Corporate Service Contract):**

34. Negotiate the contract using the appropriate standard contracts issued with the Request for Proposals. Standard forms of contract should be used with appropriate special conditions for the assignment in question.
35. The invitation to negotiations should clearly identify all items which the Executing Agency intends discussing at negotiations such as:
- proposed changes to the Terms of Reference
  - proposed changes to personnel or client inputs
  - special contract conditions
  - financial terms.
36. The selected firm should also be requested to submit any information and data required for the negotiations, prior to the start of negotiations so that the negotiating team can review such information and data.
37. Negotiations should normally include agreement on:
- Terms of Reference and Work Plan, inputs and outputs, time schedule, etc.;
  - conditions of contract, including price adjustment, contingencies, guarantees, insurance, professional liability;
  - financial terms, including fees, payment terms and conditions, other reimbursable costs.
38. Should the negotiations with the selected firm prove unsatisfactory, the firm submitting the next-ranked proposal should be invited for negotiations (and so on if necessary), until an agreement is satisfactorily concluded. Other short-listed firms should be advised of the fact.
39. **Fee structure (Corporate Service Contract):** The fees for a consultant assignment can be determined and paid on the following basis:
- cost plus fee
  - unit rates (daily, weekly or person month rates)
  - lump sum



- percentage (which the Bank strongly discourages and should be used only in exceptional circumstances)
- success
- a combination of the above

40. The decision as to the appropriate fee basis depends on:

- the type and value of the assignment;
- the work program, time schedule, inputs and outputs;
- the norm for such assignments and the sector;
- budget constraints and/or cost control.

41. Fees can be negotiated with the selected firm or can be included as a factor in the evaluation. The selected option should be stated in the Request for Proposals, and the evaluation criteria designed appropriately.

42. If fees are to be negotiated, the cost plus fixed fee is the simplest to negotiate. The selected firm is required to substantiate base costs (actual gross salaries) and negotiations focus mainly on the equitable allocation of overhead and social costs to the base costs, and a reasonable fee (profit).

43. Unit rates are normally market driven and are not based on the actual cost to the firms of carrying out the assignment, but represent the price (usually the opportunity cost) demanded by the firm. Guidelines for negotiating such rates are difficult, and a determination as to the economy and efficiency in such cases can be complex and often subjective. Where unit rates are to be adopted, serious consideration should be given to including price competition in the evaluation process.

44. Contracts provide either a per diem amount to cover all subsistence expenses or require vouchers and receipts. In either case the amounts reimbursed depend on local conditions where the services take place, guided by the concept of reasonableness.

### **Signing the Contract:**

45. Individual Service Contracts can be directly with the individual in question or with the firm with which the individual is employed. The contract is normally for a specific period to perform assignments or functions under the control and supervision of the Executing Agency.

46. Standard forms of contract should be used with appropriate special conditions for the assignment in question.

47. If the Bank is the Executing Agency, a designated officer within the Bank signs the Contract with the selected consultant. If a borrower is the Executing Agency, the borrower signs the contract and submits signed copies to the Bank for review and disbursement requirements.

### **Supervising the Contract and Post-evaluating Assignment:**

48. If the Bank is the Executing Agency, it is the responsibility of the Project Officer to supervise the implementation of an assignment and administer the performance of the contract.
49. If the client is the Executing Agency, the client is responsible for supervising the assignment and administering the contract. The Project Officer is required, on behalf of the Bank, to monitor and evaluate the implementation and performance of the assignment.
50. The supervision and administration of a contract normally involves some or all of the following:
  - Arrange for signing of the contract;
  - Ensure that the firm provides the inputs contracted for and receives the necessary data, information, etc. from the client;
  - Monitor the timely performance of the contract;
  - Review and authorize payments to the firm ensuring that these are due under the contract;
  - Ensure that any reviews by the client are carried out in a timely and comprehensive manner and that a comprehensive response is communicated to the firm within the specified time period;
  - Review and authorize any amendments to the contract including changes to the Terms of Reference, substitution of personnel, etc.;
  - Respond to queries from the firm and issue any instructions as necessary;
  - Accept the final outputs of the assignment and arrange for appropriate circulation of the reports and/or follow-up actions;
  - Carry out a post-evaluation of the assignment, including the original Terms of Reference and the performance of the firm.

## **EVALUATION OF PROPOSALS**

### **General**

1. The objective of evaluation of consultants' proposals is to rank them in order of quality based on the evaluation criteria specified in the request for proposals.
2. The evaluation is carried out by an evaluation committee familiar with the assignment and the sector of expertise required. Members of the evaluation committee should not have any current or previous link with any firm on the short list.
3. The evaluation committee normally works individually, each member evaluating all proposals. They prepare and sign evaluation sheets for each proposal. These evaluation sheets are collected and are appended to the Minutes and the evaluation report.
4. In case of doubt during examination and evaluation, the committee may contact the consultant to request further information or explanation, then confirm this request in writing. The consultant may similarly reply by telephone and confirm in writing (fax or telex).
5. All consultants who make unsolicited inquiries should be told that they will be informed in writing of the result of their proposals, if successful, once the evaluations are over, and if unsuccessful, once the contract has been awarded.

### **Preliminary Examination of Proposals**

6. The evaluation committee examines each proposal to see whether it contains the documents requested in the Request for Proposals.
7. The documents are also examined to see whether:
  - (a) they are in the correct language(s);
  - (b) they are correctly signed; and
  - (c) they do not contradict or conflict with any conditions in the Request for Proposals.
8. Proposals which fail to substantially meet these requirements should be rejected, unless the evaluation committee has asked for and received adequate clarification.

## Evaluation of the Technical Proposals

9. The technical proposals which have satisfied the preliminary examination are checked against the terms of the Request for Proposals and evaluated using the criteria specified in the Request for Proposals.
10. The evaluation criteria normally include:
- (a) the firm's experience with similar projects;
  - (b) knowledge of local conditions and language;
  - (c) resources of the firm's head office and assistance from other firms;
  - (d) the competence—qualifications, experience, skills—of the proposed staff;
  - (e) the proposed methodology, logistics, and organization of the project, where appropriate (study contract); and
  - (f) the proposed time limit and schedule, etc.

Below is an EXAMPLE of the application of technical evaluation criteria:

Evaluation Criteria	Maximum Points	Minimum Acceptable
<ul style="list-style-type: none"> <li>• Experience in the field of assignment               <ul style="list-style-type: none"> <li>- capabilities and experience in similar projects</li> <li>- experience in country of region of assignment</li> <li>- structure, organization, etc. of the firm</li> </ul> </li> </ul>	(5 - 25)	60%
<ul style="list-style-type: none"> <li>• Proposed work plan and response to the terms of reference               <ul style="list-style-type: none"> <li>- understanding of the assignment</li> <li>- approach, methodology and organization</li> <li>- innovative features</li> <li>- other factors (e.g. transfer of know-how, etc.)</li> </ul> </li> </ul>	(25 - 40)	60%
<ul style="list-style-type: none"> <li>• Personnel               <ul style="list-style-type: none"> <li>- general composition of team</li> <li>- proportion of permanent staff</li> <li>- local participation</li> </ul> </li> </ul>	(40 - 60)	60%
<b>Total</b>	<b>100</b>	<b>80%</b>

In addition, the CV of each expert should be rated separately as follows:

- qualifications and general technical adequacy for the assignment (45%)
- relevant experience to specific tasks in TOR (40%)
- local experience and language capability (10%)
- permanent staff of proposer (5%)

11. The team leader will be allocated 33% of the points for CVs, and the other experts will be allocated 66% of the points for CVs.
12. Only firms scoring a minimum of 80 points total and at least 60% of the maximum points for each of the three categories will be considered as having satisfied the minimum requirements of the Request for Proposals.
13. Once all technical proposals have been evaluated, they are ranked in order of technical preference. Those failing to satisfy the minimum requirements of the Request for Proposals are rejected.
14. An alternative technical proposal, when allowed for in the proposal is examined and evaluated only if it accompanies a compliant and acceptable technical proposal, that is, one which fully satisfies all the requirements in the Request for Proposals.
15. If the evaluation is to be based strictly on technical criteria, the firm scoring the highest should be selected for negotiations and only the price envelope of that firm should be opened.
16. If the evaluation is to be based on both technical criteria and price, the envelopes containing the financial proposals of acceptable technical proposals are now opened.

## **Evaluation of the Financial Proposals**

### Alternative A

The financial proposals should be checked to confirm that they have been prepared and presented in accordance with the requirements in the Request for Proposals.

Arithmetic errors should be identified, and if any calculations seem to be incorrect, the evaluation panel may request clarification from the consultant.

The lowest financial offer is given a financial rating of 100%; others are rated as follows:

$$\text{Financial rating of Firm A} = \text{lowest price} \div \text{Firm A's price} \times 100.$$

Technical proposal ratings are weighted 80% and Financial proposal ratings are weighted 20%.

The economically most advantageous offer is the highest weighted average of the technical and financial rating and should be the proposal recommended for negotiations and award.

## Alternative B

For large and complex assignments, a two stage procedure may be the most appropriate method of getting the best technical proposal at the most economical price. Technical proposals are requested first and evaluated. The highest ranked proposals, normally not less than two and not more than four are selected and if there is a range in excess of 10% between the highest and lowest, the weakness of each is clearly identified. The selected firms are then informed of the areas in which their proposals require strengthening, and in discussions with the executing agency agree on the changes to bring their proposal up to a substantially equal quality.

Financial proposals are then requested from the selected firms on the basis of the agreed revised technical proposals. Financial proposals are compared and the lowest priced proposal is selected for negotiations and award.

### **Cancellation of proposals:**

If no proposal satisfied the conditions in the Request for Proposals, the Executing Agency may choose either:

- (a) to award the contract through single source contracting; or
- (b) to cancel the procedure entirely.

### **Evaluation Report:**

The Evaluation Committee drafts a report which:

- (a) summarizes the evaluations;
- (b) encloses all relevant documents (evaluation sheets, minutes of committee meetings, etc.);
- (c) proposes with adequate explanation and justification, which proposal should be selected and invited for negotiations; and
- (d) identifies issues in the recommended proposal to be addressed at negotiations.