ABNORMALLY LOW BIDS

GUIDANCE NOTE ON PROCUREMENT

JUNE 2018

ABNORMALLY LOW BIDS

GUIDANCE NOTE ON PROCUREMENT

JUNE 2018

Creative Commons Attribution-NonCommercial-NoDerivs 3.0
IGO license (CC BY-NC-ND 3.0 IGO)

© 2018 Asian Development Bank
6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines
Tel +63 2 632 4444; Fax +63 2 636 2444
www.adb.org

Some rights reserved. Published in 2018.

ISBN 978-92-9261-194-1 (print), 978-92-9261-195-8 (electronic)
Publication Stock No. TIM189234-2
DOI: <http://dx.doi.org/10.22617/TIM189234-2>

The views expressed in this publication are those of the authors and do not necessarily reflect the views and policies of the Asian Development Bank (ADB) or its Board of Governors or the governments they represent.

ADB does not guarantee the accuracy of the data included in this publication and accepts no responsibility for any consequence of their use. The mention of specific companies or products of manufacturers does not imply that they are endorsed or recommended by ADB in preference to others of a similar nature that are not mentioned.

By making any designation of or reference to a particular territory or geographic area, or by using the term “country” in this document, ADB does not intend to make any judgments as to the legal or other status of any territory or area.

This work is available under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 IGO license (CC BY-NC-ND 3.0 IGO) <http://creativecommons.org/licenses/by-nc-nd/3.0/igo/>. By using the content of this publication, you agree to be bound by the terms of this license. For attribution and permissions, please read the provisions and terms of use at <https://www.adb.org/terms-use#openaccess>.

This CC license does not apply to non-ADB copyright materials in this publication. If the material is attributed to another source, please contact the copyright owner or publisher of that source for permission to reproduce it. ADB cannot be held liable for any claims that arise as a result of your use of the material.

Please contact pubsmarketing@adb.org if you have questions or comments with respect to content, or if you wish to obtain copyright permission for your intended use that does not fall within these terms, or for permission to use the ADB logo.

Notes:

In this publication, “\$” refers to United States dollars.

Corrigenda to ADB publications may be found at <http://www.adb.org/publications/corrigenda>.

CONTENTS

Figures and Boxes	iv
About This Publication	v
Abbreviations	viii
Executive Summary	ix
I. Introduction	1
II. Dealing with Abnormally Low Bids	4
III. Reporting	11
IV. Summary of the Abnormally Low Bid Assessment Process	12
Appendix: Detailed Breakdown of Cost Comparison	13

FIGURES AND BOXES

FIGURES

1.	Abnormally Low Bids in the ADB Procurement Cycle	1
2.	Three Steps for Dealing with Abnormally Low Bids	4
3.	Summary of the Abnormally Low Bid Assessment Process	12

BOXES

1.	Abnormally Low Bids for Consulting Services	2
2.	Automatic Exclusion Is Not Permitted	2
3.	There May Be Good Reasons for a Low Bid Price	3
4.	Abnormally Low Bids in Bids with Multiple Lots	4
5.	Assessing the Engineer's Cost Estimate	5
6.	Use Calculations Together with Other Methods	6
7.	No Material Changes Allowed during Clarification	8
8.	Misrepresentations Constitute Fraud	9
9.	Rejecting Abnormally Low Bids Requires ADB's Prior Review	11

ABOUT THIS PUBLICATION

In April 2017, the Asian Development Bank (ADB) approved its new procurement framework, the ADB Procurement Policy: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time); and the Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time). These replace the former Guidelines on the Use of Consultants (2013, as amended from time to time) and Procurement Guidelines (2015, as amended from time to time). The procurement policy and the procurement regulations address the procurement activities of project executing agencies and implementing agencies on projects financed in whole or in part by a loan or grant from ADB, or by ADB-administered funds. ADB designed the 2017 procurement policy to deliver significant benefits and flexibility throughout the project procurement cycle, as well as to improve project delivery through a renewed focus on the concepts of quality, value for money (VFM), and fitness for purpose.

This note is part of a series of guidance notes published by ADB in 2018 to accompany the 2017 procurement policy and the procurement regulations. Each note discusses a topical issue for borrowers (including grant recipients), bidders, and civil society under the new framework (see list below). The guidance notes cross-reference each other frequently and should be read in conjunction. All references to “guidance notes” pertain to these notes. The notes may be updated, replaced, or withdrawn from time to time.

List of Guidance Notes for the 2017 ADB Procurement Policy and the Procurement Regulations

1. Value for Money	14. High-Level Technology
2. Procurement Risk Framework	15. Quality
3. Strategic Procurement Planning	16. Bidding-Related Complaints
4. Procurement Review	17. Noncompliance in Procurement
5. Alternative Procurement Arrangements	18. Standstill Period
6. Open Competitive Bidding	19. State-Owned Enterprises
7. Price Adjustment	20. E-Procurement
8. Abnormally Low Bids	21. Framework Agreements for Consulting Services
9. Domestic Preference	22. Public-Private Partnerships
10. Prequalification	23. Contract Management
11. Subcontracting	24. Fragile, Conflict-Affected, and Emergency Situations
12. Consulting Services Administered by ADB Borrowers	
13. Nonconsulting Services Administered by ADB Borrowers	
-

ADB procurement reforms intend to ensure VFM by improving flexibility, quality, and efficiency throughout the procurement cycle (see illustration below and the *Guidance Note on Value for Money*). VFM is part of a holistic procurement structure with three support pillars: efficiency, quality, and flexibility. The two key principles of transparency and fairness weave across all elements of the structure.

Time

Time is an important element of VFM. When a project is delivered promptly or when a process is completed rapidly, greater value is created for all stakeholders. For example, a road project completed early provides economic benefit, security, or other value to the community it serves. It increases the return on investment to the executing agency and accelerates the project and payment cycle to the successful bidder. Likewise, a project delivered late loses significant value.

When considering VFM in the context of procurement, pay attention to anything that (i) shortens the procurement cycle time frame or (ii) accelerates delivery of the development project.

Objective

This guidance note is intended to assist readers by elaborating on and explaining ADB's 2017 procurement policy and procurement regulations for borrowers (including grant recipients).

This note identifies additional information for the reader to consider when applying ADB's procurement policy and procurement regulations to their circumstances.

Living Document

This guidance note is intended to be a living document and will be revised as required.

Be sure to check the ADB Business Center website for the latest version and updates, <https://www.adb.org/business/main>.

The Reader

In many circumstances, readers are expected to use this guidance note in a manner unique to their needs. For consistency throughout the suite of guidance notes, the following assumption is made about the reader:

The reader is a professional involved in activities financed in whole or in part by an ADB loan or grant, or by ADB-administered funds.

FAQs

Frequently asked questions, clarifications, examples, additional information, links to training, and other useful resources will be made available on the ADB website.

Be sure to check the ADB Business Center website for more information, <https://www.adb.org/business/main>.

Legal and Order of Priority

This guidance note explains and elaborates on the provisions of the Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time) applicable to executing (and implementing) agencies under sovereign (including subsovereign) projects financed in whole or in part by an investment loan from ADB (i.e., excluding ADB results- or policy-based loans), ADB-financed grant (excluding ADB-administered technical assistance and staff consultancies), or by ADB-administered funds.

In the event of any discrepancy between this guidance note and the procurement regulations, the latter will prevail. The financing agreement governs the legal relationships between the borrower and ADB. The rights and obligations between the borrower and the provider of goods, works, or services are governed by the specific procurement document issued by the borrower and by the contract signed between the borrower and the provider, and not by this guidance note.

ABBREVIATIONS

ADB	—	Asian Development Bank
ALB	—	abnormally low bid
VFM	—	value for money

EXECUTIVE SUMMARY

Through this guidance note, ADB addresses for the first time the issue of abnormally low bids (ALBs). Now, subject to the proper procedural determination of an ALB, it is possible to reject a bid, require an increase in the amount of the performance security as a condition to award the contract (the amount of the performance security shall generally not exceed 20% of the contract price), or accept the bid as such.

Dealing with ALBs may

Increase Efficiency and Reduce Implementation Time

- Improve contract implementation by identifying potential costing issues up front.
- Reduce time delays during contract implementation.
- Avoid possible project failure.

Ensure Quality

- Help to identify unfit or unreliable bidders, and ensure that reliable, competent bidders are selected.

Reduce Risk

- “De-risk” projects in which the bidder does not sufficiently account for the financial implications of
 - › employment regulations;
 - › health, safety, security, and environment requirements;
 - › environmental obligations; and/or
 - › technical requirements.

Improve Value for Money

- Identify unrealistic or inaccurate borrower project cost estimates.

I. Introduction

1.1 This guidance note is intended to assist users with identifying and addressing abnormally low bids (ALBs) during the bid evaluation phase of the procurement cycle for works, goods, or services under projects financed in whole or in part by a loan or grant from the Asian Development Bank (ADB), or by ADB-administered funds. Figure 1 shows where ALBs feature in the ADB procurement cycle. The guidance note also highlights the approach to evaluating an unbalanced bid or front-loaded bid that may or may not be a part of an ALB. An ALB is not in and of itself negative, but it requires additional investigation, as it could be a sign of risks such as

- (i) a lack of technical or commercial competence,
- (ii) an intent to not follow design standards or specifications, and/or
- (iii) an intent to not comply with environmental or labor laws.

Figure 1: Abnormally Low Bids in the ADB Procurement Cycle

Source: Asian Development Bank.

1.2 As described in the Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time), an ALB is one where “the bid price appears so unreasonably low that it raises concerns with the borrower in respect of the bidder’s ability to perform the contract successfully.”¹ It arises as a problem when the lowest evaluated responsive bidder appears to offer a price that is abnormally low, compared not only to the borrower’s (or grant recipient’s) estimate but also to the prevailing market conditions (Box 1). If procurement planning and design are carried out effectively, the risk of being confronted with this situation should be significantly reduced.

Box 1
Abnormally Low Bids for Consulting Services

ALBs also exist in services offered by consulting firms. For instance, it may happen that a firm establishes its financial proposal on the basis of person-month rates well below its labor market prices and, once awarded the contract, substitutes the experts whose resumes were used in its technical proposal by freelance experts recruited for low fees.

Source: Asian Development Bank.

1.3 A good planning process includes a project procurement risk assessment that considers the operational context, the market, and the potential for risks. This risk assessment is taken into consideration in the design of the procurement plan. Robust project preparation also ensures good quality bidding documents setting out clearly (i) the expected requirements, (ii) bidder qualifications, and (iii) a sufficient time frame for the preparation and submission of bids including clarifications where necessary. Cost estimates that are prepared also consider the desired outcomes including quality elements.

1.4 There are cases, nevertheless, where bidders may offer a price that is so low it will appropriately place doubt on their ability to perform the contract. This does not necessarily mean that they cannot or will not perform according to expectations; thus, any procedure under which bids above or below a predetermined assessment of bid values are automatically disqualified is not acceptable (footnote 1) (Box 2).

Box 2
Automatic Exclusion Is Not Permitted

No automatic exclusion due to prices falling above or below a predetermined assessment of bid values.

Source: Asian Development Bank.

1.5 There is no reason that a procurement process should preclude a borrower from benefiting from such conditions. If the borrower is caught in a dilemma where an exceptionally low bid is proposed and raises suspicions on the bidder’s capability to perform the contract, it should be at liberty to question the reasons for the presented low price. The borrower may then seek written explanations from the potentially successful bidder offering the abnormally low price to avoid potential contract implementation issues.

¹ ADB. 2017. *Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services*. Appendix 3, para. 76. Manila.

1.6 It is recommended that these questions be clarified at the evaluation stage, because the problems with an ALB are likely to appear only at the contract management stage when the contractors or suppliers seek variations to compensate for such abnormally low prices or when issues of quality or implementation delays appear. It is thus better to avoid such possibilities at this stage than to deal with them during implementation.

1.7 If the reason offered is valid and justifies the low price without jeopardizing the performance of the contract, the borrower is entitled to proceed with that bidder (Box 3). If, on the other hand, the reason offered is not valid and does not justify the low price without jeopardizing the performance of the contract, the borrower may reject the bid or accept the bid but request a higher performance security to safeguard the fulfillment of the contract.

Box 3

There May Be Good Reasons for a Low Bid Price

- The economy of the manufacturing process, the services provided, or the construction method (i.e., the bidder has found a way of providing the goods, works, or services in a more cost-effective manner than its competitors).
- The technical solutions chosen or any exceptionally favorable conditions available to the bidder for the supply of the products or services or for the execution of the work.
- The originality of the bidder's work, supplies, or services proposed.
- Change in underlying input prices, e.g., commodities.
- Economies of scale, effective supply chain management, or as a loss leader to establish market presence.
- The bidder may intend to quote only at cost (without profit margin) to establish its business in a country or sector to gain experience to compete for future bidding.

Source: Asian Development Bank.

1.8 The guidelines and methodology in this guidance note are subject to compliance with applicable national procurement regulations in ADB's developing member countries. Should the applicable national procurement regulations support the methodology described in this guidance note, this methodology is to be considered as a tool for dealing with ALBs, but it will be for the borrower, considering all relevant circumstances, to eventually decide whether it should be used or not.

II. Dealing with Abnormally Low Bids

2.1 Figure 2 describes the three broad steps in dealing with ALBs. Each of these steps needs to be approached carefully. Examples of what needs to be considered are given under each of the steps.

Figure 2: Three Steps for Dealing with Abnormally Low Bids

Source: Asian Development Bank.

A. Identify

2.2 Identifying an ALB may not always be easy and there is no accepted predetermined formula for doing so. To determine that a bid price is abnormally low, several approaches can be considered and, if possible, they should be combined to minimize the scope for subjectivity:

- (i) Comparing the bid price with the engineer's cost estimate.
- (ii) Comparing the bid price with the bids offered by other bidders submitting substantially responsive bids.
- (iii) Comparing the bid price with prices paid in similar contracts in the recent past, either government- or development partner-funded.

2.3 Each of these approaches should, however, be utilized with caution and not only to justify foregone conclusions. Each potential case must be reviewed on its own merits and be based on the circumstances (Box 4).

Box 4 **Abnormally Low Bids in Bids with Multiple Lots**

Where the bidding procedure is for multiple lots, if the ALB(s) concern(s) only specific lot(s), the award of lot(s) with no ALB should not be delayed.

Source: Asian Development Bank.

1. Comparing the Bid Price with the Engineer's Cost Estimate

2.4 If the engineer's cost estimate is used as a basis for identifying an ALB, the estimate's assumptions should be validated, and it should be checked for accuracy and updated with the current market prices, as appropriate, as part of the process. Updating must be made, to the extent possible, prior to the start of the bid evaluation process (Box 5).

2.5 There are often cases of project cost estimates being too high due to incorrect assumptions about technical solutions, project methodology, or a misunderstanding of the input, raw-materials market, or price levels. The following are examples of circumstances related to the project cost estimates that could justify why a bid price may not be considered abnormally low:

- (i) An engineer made calculations at a very early stage of the project when the project's components are difficult to identify or assess.
- (ii) The estimates were based on outdated information (such as the feasibility study) and, therefore, no longer accurate or relevant at the bid evaluation stage.
- (iii) The cost was based on a particular work methodology or method of construction proposed by the original designer that may not subsequently be proposed by the bidder in its bid (of particular relevance to design and build contracts).
- (iv) The calculations were based on assumptions made by the designer which may subsequently be invalid (i.e., current cost of materials that are subsequently subject to price adjustment; current legislation that may be subject to change, etc.).
- (v) The borrower used a high contingency rate for cost estimating and/or budgeting purposes.
- (vi) The estimates were simply inaccurate.

2.6 In other cases, without the borrower's cost estimate being irrelevant, a bidder's strategy may explain why bid prices may be below the engineer's cost estimate:

- (i) A bidder having other ongoing projects in the same region may benefit from this situation to quote lower mobilization costs for its personnel and equipment or quote lower procurement costs for the materials needed for the project being tendered (e.g., because of borrowed materials).
- (ii) A bidder may be prepared to quote "at cost" in certain circumstances: either because the bidder is willing to enter a new market or, when

Box 5

Assessing the Engineer's Cost Estimate

Before starting the evaluation, the borrower should require the bid evaluation committee (and any external experts appointed to assist, if any) to undertake, to the extent possible, due diligence to ascertain if the engineer's cost estimate can reasonably be relied on for the purpose of bid evaluation.

Source: Asian Development Bank.

confronted with an economic downturn, because the bidder may decide to enter into works contracts for no profit (or even at a loss, it being noted, however, that selling at a loss is prohibited under certain jurisdictions), simply to cover their fixed costs. Contractors may indeed legitimately conclude that it is better to cover their costs, even without profit, to keep their business running than to lose the business altogether.

- (iii) A bidder may have based its bid on a more efficient or innovative work methodology than other bidders (including the use of different technologies or types of material, or a different approach to work scheduling).

2. Comparing the Bid Price with the Other Substantially Responsive Bids

2.7 If the approach chosen is to compare the bid with those of other bidders submitting substantially responsive bids, it is possible to attempt to characterize an ALB by applying a mathematical calculation to the bid prices among themselves. However, great care should be observed in doing so, due the inherent statistical bias attached to this type of approach and the false sense of objectivity that such methods may convey. It is thus recommended to use a mathematical approach only in combination with other methods as a tool to confirm (but not to establish alone) the abnormally low characteristic of a bid price (Box 6).

Box 6

Use Calculations Together with Other Methods

The use of mathematical formulas alone may convey a false sense of objectivity. They should only be considered as indicators that require further verification.

Source: Asian Development Bank.

3. Comparing the Bid Price with Prices Paid in Similar Contracts in the Recent Past

2.8 Although this approach would probably be the most convincing test for determining if the price of a bid is abnormally low, it may prove extremely difficult to find one or several benchmark projects, the issue of “similarity” being always complex to address.

2.9 In some cases, the borrower may need the assistance of external experts to determine whether a bidder is capable of performing a contract within its bid price, in particular for high-level technology projects.

2.10 Identification of ALBs is to be carried out only for substantially responsive bids. Nonresponsiveness is itself likely to give rise to abnormally low prices, but such bids shall be rejected from consideration in any event.

4. The Question of Unbalanced or Front-Loaded Bids

2.11 The existence of ALBs should be distinguished from “unbalanced” or “front-loaded” bids. Front-loaded bids consist of deliberately submitting bids with artificially high prices or unit rates for the early stages of a construction project, offset by artificially low prices or unit rates for the later stages of the project, to improve the contractor’s cash flow.

2.12 Unbalanced bid situations may arise in admeasurement contracts when a bidder detects that a line item may have been underestimated in the Bill of Quantities and offers a high price on the item. The bidder offsets this high unit price with low prices on other items, in anticipation of when the actual quantities of the highly priced item are re-measured for payment. As a result, when reviewing the unit prices offered, some may seem to be abnormally low when they are intended by the bidder to be offset against other (higher) unit prices.

2.13 Unbalanced bids may also be a cover for other schemes that may be part of bid rigging, for example,

- (i) quoting high prices on line items that the bidder knows or anticipates will be the subject of change orders that increase the quantity of goods or works required and thus the actual price received, and/or
- (ii) quoting significantly lower prices on line items that the bidder knows will not be called for after contract award.

2.14 Although not necessarily abnormally-low-priced, unbalanced or front-loaded bids may be uncovered during the process of identifying ALBs and should be reviewed in the same way. The difference is that, where they are discovered, the outcome may be different. The bid shall not be rejected but the bidder shall be requested to increase the performance security to protect the interests of the borrower and ADB. In such cases, should the bidder refuse to comply, its bid will be rejected and while its bid security is not forfeited, the award will be made to the next lowest responsive bidder.

B. Clarify and Analyze

2.15 Once identified as a possibility, the borrower will need to investigate the existence of an ALB further to determine whether the price is justified or, alternatively, based on error or miscalculation or, worse, an attempt to undervalue the contract in a way that implies the possibility of a reduction in the overall quality of the end result.

2.16 If it is suspected that the ALB stems from an error, the borrower should first consider the following situations in determining the scope and type of error:

- (i) if some items are priced significantly lower than the borrower's cost estimate, this may be the result of an arithmetical error or misunderstanding of the requirements; and/or
- (ii) if certain items or types of items are consistently underpriced, explore further why this is the case.

2.17 If the existence of an ALB cannot be explained clearly by such mistakes, the assessment of prices that appear abnormally low will require a detailed analysis of bid prices, by reference to the scope, proposed methodology, schedule, and allocation of risks and responsibilities. To this end, the borrower will need to seek written explanations of the proposed price or costs from the bidder. To the extent possible, explanations provided by the bidder shall initially be corroborated by information already provided in its bid (Box 7).

Box 7

No Material Changes Allowed during Clarification

No bidder shall be allowed to change the substance of its bid, technically or financially, or make any material change when providing clarification, during the validity period.

Source: Asian Development Bank.

2.18 Based on the price elements that appear abnormally low, the borrower may seek clarifications from the bidder on issues including

- (i) information regarding the economy of the manufacturing process, the services provided, or the construction method to be adopted;
- (ii) the source and rates or prices for services, materials, and supplies intended for the performance of the works or services;
- (iii) the technical solutions chosen or any exceptionally favorable conditions available to the bidder for the supply of the products or services or for the execution of the work; and
- (iv) compliance with applicable standards and regulations (in particular social and environmental laws and regulations).

2.19 Clarifications sought from bidders to justify their prices may include

- (i) labor rates or cost;
- (ii) sources and quantities of materials;
- (iii) track record for delivering similar item(s) at a similar price;
- (iv) construction plant and equipment;
- (v) transportation distances;
- (vi) source and modalities of acquisition of the proposed construction equipment (e.g., hire, lease, purchase agreement, etc.); and
- (vii) other requirements for which the borrower requires clarification.

2.20 Where this is the case, the clarification requested should focus on the rates of costs that have been determined to be abnormally low and it should state the rationale or the benchmarks that were utilized for such analysis (Box 8). The borrower should also specify in which form this information should be provided, and this may include specific templates enabling the bidder to respond accurately to the clarification requested (sample “Form for Detailed Breakdown of Cost Comparison” in the Appendix).

Box 8

Misrepresentations Constitute Fraud

Any misrepresentation by the bidder in the information provided constitutes fraudulent practice which is sanctionable under ADB’s Anticorruption Policy (1998, as amended to date)^a and Integrity Principles and Guidelines (2015, as amended from time to time).^b

^a ADB. 2010. *Anticorruption and Integrity*. Manila. <https://www.adb.org/sites/default/files/institutional-document/31317/anticorruption-integrity-policy-strategy.pdf>.

^b ADB. 2015. *Integrity Principles and Guidelines (2015)*. Manila. <https://www.adb.org/sites/default/files/institutional-document/32131/integrity-principles-guidelines.pdf>.

Source: Asian Development Bank.

2.21 The information that is typically requested in a price analysis may include basic cost components for resource inputs, overheads, contingency, and profit margin from both the contractor and any subcontractor.

1. Clarification of Resource Inputs and Pricing

2.22 Where the bidder’s estimate of a resource input appears unrealistic or is substantially below the borrower’s cost estimate, the bidder should submit appropriate justification or substantiation to support its pricing of the respective resource input.

2. Clarification of the Bidder’s Overheads, Contingency, and Profit Margin

2.23 Given that the basis on which overheads are calculated and distributed among the various price components may vary substantially between bidders, the borrower may require the bidders to provide detailed information about their overheads, contingency, and profit margins, if required. This might include

- (i) organizational and project management arrangements (on- and off-site),
- (ii) contingency margin for risks used in the price calculation, and/or
- (iii) profit margin used for the bid price calculation.

2.24 Borrowers should give bidders sufficient time to provide any requested clarifications and/or detailed price analyses. A period of no less than 7–14 business days should normally be allowed for the bidder to respond depending on the type of project and the scope of clarifications requested. A longer period should be allowed if validation by the bidder’s external auditor is required.

2.25 Failure for the bidder to respond or to provide all requested clarification in the stated time period may justify the rejection of the bid by the borrower at this point of time.

2.26 On receipt of the bidder’s explanation, suitably qualified personnel from the borrower (or capable consultants engaged on their behalf) must fully analyze the information and all supporting documentation provided by the bidder in response to the request for clarification. Further clarification from the bidder may be requested as necessary.

C. Decide

2.27 After examining the explanation given and the detailed price analyses presented by the bidder, the borrower will have three options. The decision to be taken will depend on whether the explanations provided, or the borrower’s assessment of those explanations, demonstrate the ability of the bidder to complete the contract as specified for the bid price without compromising quality or diminishing the required output.

2.28 The borrower may thus

- (i) Accept the bid, if the evidence supplied does satisfactorily account for the low level of prices and costs, in which case the bid is not considered abnormally low.
- (ii) Accept the bid, but require that the amount of the performance security be increased at the expense of the bidder to a level sufficient to protect the borrower against financial loss in the event of default of the successful bidder under the contract. The amount of the performance security (including such increase) shall generally not be more than 20% of the contract price.
- (iii) Reject the bid, if the evidence supplied does not satisfactorily account for the low price or costs proposed.

2.29 If a bid is rejected or if the bidder fails to provide an increased performance security, the borrower will make a similar determination for the next-ranked bid. The borrower may award the contract to the next-ranked bidder, provided that the bid is not determined to be similarly abnormally low. Should it be the case, the same treatment should be applied to it, with the same possible outcomes as described above.

III. Reporting

3.1 Whenever the identification of an ALB has led to the initiation of the process described in section II, the borrower must include in the bid evaluation report the full details upon which its decision has been made, and must include the following information, as appropriate:

- (i) the bidder's unit rates or costs of items that are determined to be below the realistic level of what is required to satisfactorily perform the contract;
- (ii) the borrower's own cost estimate of the same items together with the assumptions on which such cost estimates are based and, as the case may be, why such assumptions may no longer be applicable to the contract;
- (iii) the total value of the gap between the two elements above;
- (iv) details of the clarifications sought, and the explanations provided by the bidder;
- (v) details of any price analyses requested and evaluated;
- (vi) the recommended decision to accept, with increase of the performance security, or to reject the bid based on the explanations provided and/or an evaluation of the bidder's price analyses; and/or
- (vii) copies of all exchanges between the borrower and the bidder during the clarification process.

3.2 Unless otherwise described in the project procurement plan, the rejection of any bid determined to be abnormally low, or the proposal to accept the bid with an increase of the performance security, requires ADB's prior review, regardless of the review procedures described for the project (Box 9).

Box 9

Rejecting Abnormally Low Bids Requires ADB's Prior Review

The rejection of any bids determined to be ALBs requires ADB's prior review, regardless of the review procedures described for the project in the procurement plan.

Source: Asian Development Bank.

3.3 Due diligence to determine if any bid is abnormally low must, therefore, be undertaken before submitting the bid evaluation report to ADB for no-objection.

IV. Summary of the Abnormally Low Bid Assessment Process

4.1 Figure 3 summarizes the ALB assessment process described in section II.

Figure 3: Summary of the Abnormally Low Bid Assessment Process

Source: Asian Development Bank.

Appendix: Detailed Breakdown of Cost Comparison

Form for Detailed Breakdown of Cost Comparison

Project Name: _____

Contract Description: _____

Item no.	Description	Unit	Nominal Quantity	Rate	Total Amount
Breakdown for Item No. _____					
Description		Unit	Nominal Quantity	Rate	Amount
Labor	1.				
	2.				
	etc.				
	Total for Labor				
Materials	1.				
	2.				
	etc.				
	Total for Materials				
Equipment	1.				
	2.				
	etc.				
	Total for Equipment				
Site Overheads	1.				
	2.				
	etc.				
	Total for Site Overheads				
Headquarters Overheads	1.				
	2.				
	etc.				
	Total for Headquarters Overheads				
Profit					
Taxes					
Total Amount					
Total Unit Rate					

Source: Asian Development Bank.

Abnormally Low Bids

Guidance Note on Procurement

This guidance note is intended to assist users with identifying and addressing abnormally low bids during the bid evaluation phase for projects financed in whole or in part by an ADB loan or grant, or by ADB-administered funds. It also highlights the approach to evaluating an unbalanced bid or front-loaded bid that may or may not be a part of an abnormally low bid. With this step-by-step guide, users can determine whether to reject abnormally low bids, require an increase of the performance security amount as a condition to award the contract, or simply accept such bids.

About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to a large share of the world's poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

ASIAN DEVELOPMENT BANK

6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org