

# Project Administration Instructions

PAI 3.05  
Revised in June 2022  
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## NATIONAL COMPETITIVE BIDDING

### A. Introduction

1. While international competitive bidding (ICB) is deemed the most appropriate method for procuring ADB-financed goods and works in most cases, borrowers<sup>1</sup> may ask to use national competitive bidding (NCB) which is normally used for public procurement in the country. Staff<sup>2</sup> should note that the use of NCB also supports a guiding principle of ADB procurement, i.e., to promote domestic contracting and manufacturing industries in developing member countries (DMCs). Foreign bidders from other ADB member countries have the option to bid under ADB-funded procurement using NCB procedures. The flow chart in Appendix 1 of this Project Administration Instructions (PAI) shows the typical steps for procurement under NCB although they may vary according to the specific laws, rules, and regulations of the DMCs. Sections of PAI 3.03 on Packaging Contracts and Bidding Procedures also apply to procurement under NCB.

### B. Rationale and Contract Ceilings

2. Upon the request of the borrower, NCB may be considered only if ADB is satisfied that: (i) foreign contractors and suppliers are not likely to be interested in bidding, or (ii) the advantages of ICB are clearly outweighed by the administrative or financial burden involved, provided that procurement procedures are satisfactory to ADB.

Foreign bidders may not be interested in contracts that:

- are of small value or consist of a series of small-value works;
- are scattered geographically or spread over time;
- are labor intensive; or
- involve locally available goods, works, or services at prices below those on the international market.

3. Where NCB is proposed as a method of procurement, ADB processing missions are to satisfy themselves that enough domestic producers or contractors are capable of providing the required quantity and quality of goods and related services or works at reasonable costs and within the required time frame. A DMC has a threshold or contract ceiling amount for NCB contracts<sup>3</sup> of \$3 million to \$40 million for works contracts, or of \$1.0 million to \$10 million for the supply of goods, depending on the assessed performance of contractors/suppliers in the market. Setting the ceiling above the default lowest value in the range is determined on a country-by-country basis, latest at loan negotiations and in consultation with the Procurement, Portfolio and Financial Management Department (PPFD). Contracts estimated to be greater than the NCB ceiling would normally be procured following ICB procedures unless another method (e.g., limited international bidding or direct contracting) has been specifically prescribed and agreed upon in the procurement plan. Note, however, that contracts estimated to cost within the NCB range would still need to meet the requirements for NCB mentioned in para. 2. These need to be confirmed, particularly the local availability of the required goods and services, before they are actually tendered under NCB procedures.

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<sup>1</sup> Includes grant recipient for the rest of this PAI.

<sup>2</sup> ADB staff administering investment projects.

<sup>3</sup> Contract ceiling for NCB contracts is below the ICB threshold as defined in Appendix 2 of PAI 3.03

For the current set of NCB contract ceilings (also the ICB thresholds) by country, ADB staff administering projects shall refer to Appendix 2 of PAI 3.03 or consult with PPFD for the latest values.

### **C. Role of Project Processing Missions**

4. Processing missions formulate procurement packages with the executing agency (EA) and document them in the procurement plan, usually identifying the contracts according to procurement method (i.e., as contracts for ICB, NCB, shopping or other methods). Large and complex contracts are normally for ICB, but depending on the project scope and particularly as project locations move away from the main centers, NCB contracts can be identified, provided the conditions stated in paras. 2 and 3 are satisfied.

5. One of the necessary conditions for using NCB is that procurement procedures are satisfactory to ADB. If the procurement plan templates available in PPFD Hub include an NCB annex, this indicates that the borrower's procurement laws, rules, and regulations have been assessed for consistency with the ADB Procurement Guidelines and may be used for NCB, subject to the conditions in the annex. Processing missions<sup>4</sup> need to confirm that the laws, rules, and regulations that formed the basis of the annex are current and have not been amended or repealed. If certain provisions in them have been amended or repealed, the NCB annex may need to be reviewed by PPFD and the Office of the General Counsel (OGC) for corresponding amendments. (See Part D below.)

6. Prior to and during loan negotiations, processing missions and the borrower are to agree on the master bidding documents and the procurement plan with the following:

- list of contract packages<sup>5</sup> for which NCB is to be adopted;
- NCB annex that sets conditions or modifications required for using national procurement procedures that are acceptable to ADB;
- project specific threshold amounts for ICB and NCB;
- list of contracts for which post review (sampling) are to be applied; and
- requirements for ADB review and approval.

### **D. Evaluating Procedures: National Competitive Bidding Annex of the Procurement Plan**

7. While NCB procedures need not be identical to ICB procedures, they must provide adequate competition to ensure reasonable prices, and must not conflict with the basic principles underlying the ADB Procurement Guidelines. Evaluations of bids and contract awards must be fair, and the evaluation criteria must be known to all bidders. The factors to be considered when evaluating the NCB procedures of an EA are briefly described in Appendix 2 of this PAI. NCB annexes are already available for many countries in PPFD Hub and constitute a section of the procurement plan for each country. The NCB annex should form the basis for discussions with the EA on NCB procedures during project preparation and should not be modified without prior consultation with PPFD and OGC.

Where an NCB annex is not available for a given country and cannot be prepared in time for loan

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<sup>4</sup> Any PPFD representative in the mission is to be involved. OGC should be consulted on specific legal issues.

<sup>5</sup> The type of contracts envisaged for NCB (goods, works, plant) should be specified in the procurement plan even if specific contracts cannot be listed because of the nature of the project and the timing of processing missions.

negotiations, PPF and OGC will assist in assessing proposed NCB procedures, and required modifications shall be specified in the financing agreement in accordance with para. 3.3 of the guidelines.

#### **E. Treatment of Foreign Bidders**

8. Suppliers and contractors from all ADB eligible countries<sup>6</sup> are entitled to participate in local procurement and may not be denied participation due to nationality. Contractors and suppliers may apply for prequalification (if used) and bid for contracts under NCB procedures. ADB requires the borrowing DMC not to discourage or to take any action to deny such participation; however, foreign bidders must adhere to local procedures acceptable to ADB, including use of the local language and payment in local currency if required by the bidding documents. Under local procurement procedures, the delivered cost of materials including import duties and other taxes are normally used when comparing bids. The ADB domestic preference scheme shall not be applied.

#### **F. Advertising**

9. In order to abide by the same principle of providing timely, adequate, and correct information to potential bidders in ADB member countries, NCB procurement needs to be properly advertised. Procurement of NCB contracts is advertised on [www.adb.org](http://www.adb.org) via the posting of the procurement plan (PAI 3.02), or optionally through posting specific notices when specifically requested by EAs. Appendix 3 provides the details of ADB advertisement requirements for NCB. The posting on [www.adb.org](http://www.adb.org) of NCB specific notices for contracts for less than \$1 million is not required, but is highly recommended. Staff should note, however, that the date of the newspaper advertisement or EA's website advertisement—not of the ADB website notice—of NCB invitations for bids shall be the basis for counting the number of days from posting to the deadline for submitting bids.

#### **G. Using Standard Bidding Documents for National Competitive Bidding**

10. Processing missions should encourage borrowers to use ADB-approved standard bidding documents (SBDs) for NCB, ideally based on the ICB SBDs. This will help ensure high quality and consistency in the documents and will also hasten ADB review. The documents may reflect local procurement requirements but must not contravene the basic principles in the guidelines. If SBDs acceptable to ADB are not yet available in borrowing DMCs, PPF may provide assistance to help develop them. Once prepared and found acceptable to ADB, their use will become mandatory for all ADB-financed NCB contracts in the DMC. For a specific project, these NCB SBDs are templates that have to be accomplished to become project-specific procurement or bidding documents.

11. If, however, the borrower or EA has developed national standard bidding documents in a different format, they may be used for the initial package of procurements subject to ADB review and approval of specific provisions, provided they have been developed under national laws, rules, and/or regulations deemed acceptable as indicated in the NCB annex. For subsequent use, staff should encourage the EA, with assistance if necessary, to reformat the documents to align them with ADB SBDs that henceforth shall be considered the NCB SBDs.

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<sup>6</sup> Member countries and other countries when blanket waiver of country restrictions is applied for certain cofinanced Asian Development Fund operations.

## **H. Supervision of Procurement under NCB**

12. The same process as approved for reviewing EA actions and decisions in PAI 3.02 Parts B and L applies to NCB contracts, for which contract-specific actual NCB bidding documents and prequalification/ bid evaluation reports (BER) are reviewed.

13. As an option under prior review, project divisions may review after EA issuance of contract-specific documents and, if discrepancies are found, they may require amendments to be issued before the bid submission deadline. For exceptions to agreed provisions of the MBDs, or in the case where the evaluation and qualifications criteria have not been finalized during the preparation of the MBDs, project divisions shall seek the endorsement of PPF for the first document for each type of contract. OGC endorsement shall be secured for deviations from the agreed conditions of contract under the MBDs. For other issues that arise, however, project divisions may decide whether or not to seek advice from other units.

14. The table below provides more specific procedures based on contract sizes that correspond to the table of supervision responsibility and authority in Part L of PAI 3.02. Procedures are indicated for the review of bidding documents and the review of bid or prequalification evaluation. Misprocurement may be declared by whoever has supervision authority for a specific contract.

15. Under normal post review, ADB review is undertaken after the evaluation stage and upon submission by the EA of all documents including copies of the advertisement posted, the bidding document issued and the prequalification and/or bid evaluation reports. Project divisions have primary responsibility for the approval of the documents, and referral to PPF for procurement issues, OGC for procurement/legal issues, and Controller's for currency and payment concerns, is at their option.

16. The EA must submit copies of the BER and the signed contract in English to the concerned project division for post review, as soon as possible, following award of NCB contracts (unless prior review is specified in the procurement plan). The agency should be advised that ADB reserves the right to refuse or discontinue financing for the contract if it is found during post review that NCB procurement was not conducted in accordance with the guidelines or other provisions specified in the financing agreement.

17. When submitting a procurement transaction for review and approval, a form similar to the Procurement Approval Form attached as Appendix 1 to PAI 3.10 shall be used. This will help ensure consistent procedures, even at different levels of review for EA contract awards. Staff shall review the ADB's complete Sanctions List to confirm that none of the bidders is under current sanctions. Should staff identify that a sanctioned entity did participate in the bidding, staff shall immediately report the matter to the Office of Anticorruption and Integrity (OAI).

18. Milestone targets under ideal conditions for approval of NCB contracts are indicated in Appendix 3 of PAI 3.03.

**Table of Review Procedures for NCB Contracts**

**Table 1. Decision Authority for Review of Prequalification and Bidding Documents (Based on Master Bidding Documents)**

<b><i>Action/Decision</i></b>	<b><i>Prior Review Process</i></b>	<b><i>Post Review</i></b>
1) Below \$70 million except for post review (sampling)	<ul style="list-style-type: none"> <li>▪ SD/RM reviews based on NCB Annex and national bidding documents, if any, and issues no-objection to issue bidding document to EA, subject to:                             <ul style="list-style-type: none"> <li>o PPF/OGC endorsement when BDs have exceptions to MBD, or SD/RM<sup>1</sup> with PPF/OGC advice when requested for other specific issues, or</li> <li>o SCD<sup>2</sup> gives no objection, with endorsement from PASS accredited staff</li> <li>o SD/RM sends comments to EA within 8 working days</li> </ul> </li> <li>▪ For subsequent bidding documents of similar contract type:                             <ul style="list-style-type: none"> <li>(i) Same reviewers but review after issuance by EA</li> <li>(ii) EA submits immediately to ADB the issued BDs</li> <li>(iii) SD/RM sends comments within 8 working days to EA with recommendation to amend BD, if any, as well as possible deadline extension</li> </ul> </li> </ul> <p>SD/RM may adopt streamlining measure for similar contracts</p>	<ul style="list-style-type: none"> <li>▪ Review is undertaken together with bid evaluation and award documents.</li> </ul>
2) Contracts under post review (sampling)	NA	<ul style="list-style-type: none"> <li>▪ EA prepares and issues bidding document based on national or ADB standard bidding documents</li> <li>▪ ADB/SCD requests for documents of contracts in sample for review after award</li> </ul>

<sup>1</sup> SD/RM = sector division or resident mission

<sup>2</sup> SCD = sector or country director

**Table 2. Decision Authority for Approval of Evaluation or Award for Prequalification, Technical, and/or Financial Bids**

<i><b>Action/Decision</b></i>	<i><b>Prior Review Process (Prior to award)</b></i>	<i><b>Post Review (After award)</b></i>
1) From \$20 million up to, but not including, \$70 million <sup>7</sup>	<ul style="list-style-type: none"> <li>▪ EA submits bid/PQ evaluation report to ADB (SD/RM) SD/RM sends copy of evaluation report to PFP1/PFP2 for review PFP1/PFP2 provides comments within 5 working days</li> <li>▪ SD/RM prepares Procurement Approval Form within 1 working day and sends completed Form to PFP1/PFP2</li> <li>▪ SCD gives no-objection to EA action, with countersignature from PFP1/PFP2 Director. PFP1/PFP2 director may delegate authority to senior PPFD outposted staff.</li> <li>▪ If SD/RM and PFP1/PFP2 disagree in any of the above, case elevated to the Procurement Committee</li> <li>▪ SD/RM shall ensure ADB action within total of 8 working days from receipt of bid/PQ evaluation report, except if the matter is elevated to the procurement committee.</li> </ul>	<p style="text-align: center;">NA</p> <p>(Note: For exceptional cases where post review is approved for contract sizes in this range, the same procedure as for prior review will apply.)</p>
2) Below \$20 million	<ul style="list-style-type: none"> <li>▪ SD/RM reviews and SCD gives no- objection to EA action, with endorsement from PASS accredited staff within 8 working days</li> <li>▪ SD/RM may consult PPF/OGC on specific issues</li> </ul>	Same procedure as for prior review.
3) Contracts under post review sampling	NA	<ul style="list-style-type: none"> <li>▪ EA awards contract</li> <li>▪ ADB/SCD requests for documents of contracts in sample for review after award</li> </ul>

<sup>7</sup> Notwithstanding the provisions of this Table, a financial bid evaluation report for a contract proposed for award at \$70 million and above and having no issues may be jointly approved by the relevant SCD and PFP1/PFP2 director (co-approval). For the purposes of this footnote, 'No issues' denotes low procurement risk in awarding a contract as proposed by the EA and is indicated by, but is not limited to, (i) the bid recommended for award had the lowest price at bid opening and is not conditional, (ii) the EA does not recommend price negotiations with the winning bidder or rejection of all bids, and (iii) the EA does not recommend, due to Abnormally Low Bid considerations, to reject a bid or increase the performance security of the bidder recommended for award. PFP1/PFP2 director assesses the procurement risk of each contract proposed for award at \$70 million and above, in consultation with the SD/RM and OGC if necessary.

## **I. Procurement of Commodities under National Competitive Bidding**

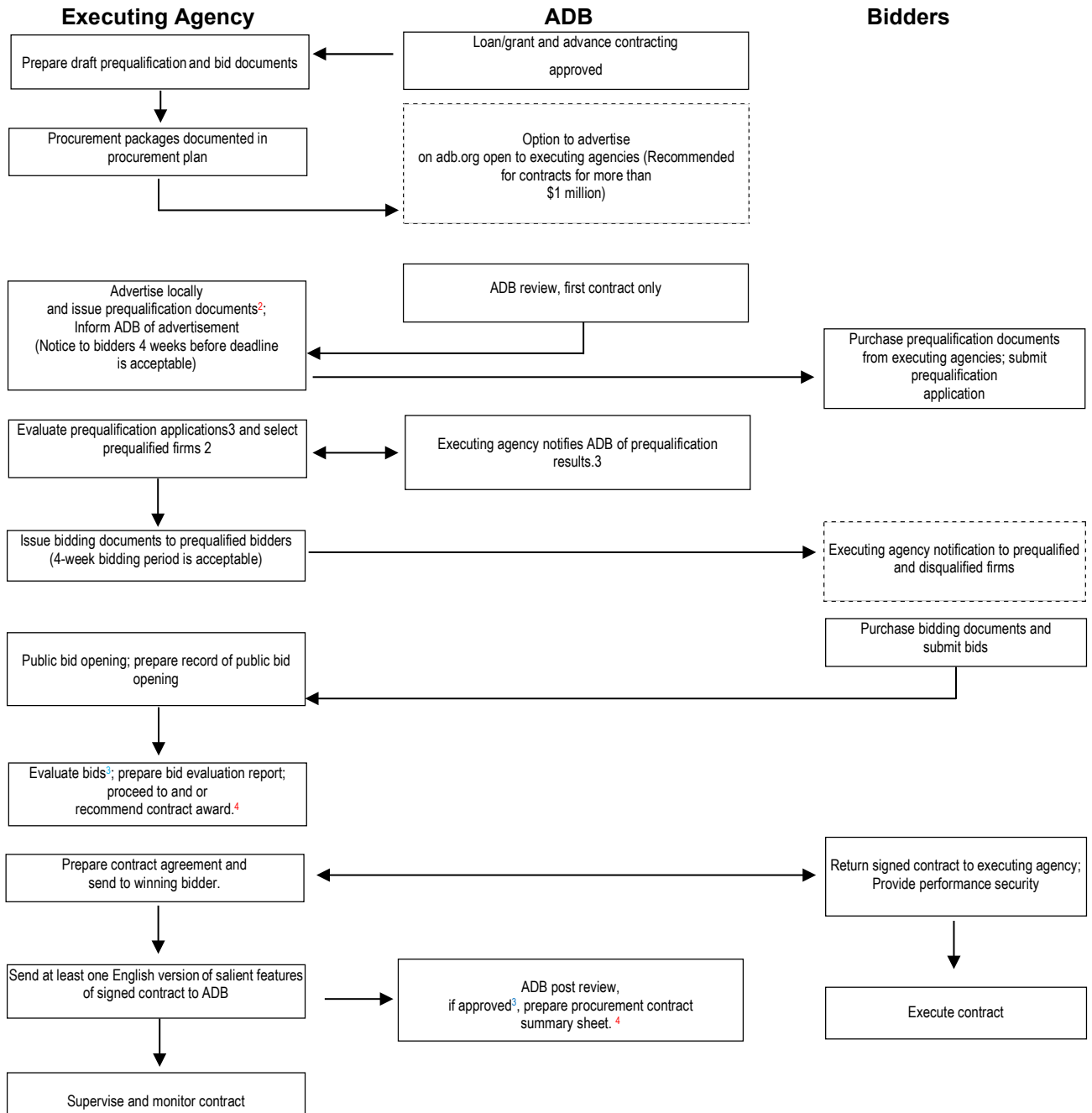
19. Whenever the value of a commodity contract is less than the ICB threshold and therefore within the NCB ceiling, procedures similar to those outlined in para. 19 of PAI 3.04 are followed with the following exceptions.

- Advertisements on adb.org and UNDB may not be required. Fax or email inquiries and quotations can be used without any public opening of bids.
- The executing agency will adopt the agreed procedures, award the contract, and forward copies of the signed contract and BER to ADB. This accompanies the first withdrawal application<sup>8</sup> of funds under the contract.
- The project division reviews the evaluation report and the contract in accordance with the above table of review for NCB contracts and, after satisfying itself that the contract award is acceptable, enters an executing agency contract record into the financial system indicating eligibility for financing. This is followed by the processing of withdrawal application by the Controller's department.
- ADB reserves the right not to finance a contract if it is not satisfied with the procurement used or the evaluation of bids

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<sup>8</sup> Alternatively, imprest account or reimbursement may be used by the EA.

**Procurement under National Competitive Bidding<sup>1</sup>**



<sup>1</sup> Flowchart shown is for post review. If prior review is adopted, see ICB flowcharts in Appendix 1 of PAI 3.03; Standard times for each activity are set in the PRS monitoring module

<sup>2</sup> Prequalification is discouraged for NCB. DMCs may have a register of suppliers/contractors. Project division staff should ensure that the registration system is acceptable to ADB (e.g., it reflects the underlying principles of the ADB Procurement Guidelines); and where acceptable, prequalification may not be required.

<sup>3</sup> Conduct due diligence and confirm that no bidder is on the ADB's complete Sanctions List.

<sup>4</sup> Staff must check the sanction list prior to approving the contract. If the prequalification or procurement requires prior consideration of the procurement committee, in accordance with PAI 3.10 the executing agency must be advised not to notify prequalified firms or award contracts prior to the committee's deliberations and subsequent ADB approval.



## **Evaluating National Competitive Bidding Procedures in Developing Member Countries**

While NCB procedures do not need to be identical with ADB ICB procedures, the basic objectives of the latter such as economy, efficiency, transparency, and equal and fair opportunity for all eligible bidders must be met. The following checklist helps evaluate the procedures.

### **A. Eligibility**

All qualified local bidders are eligible. For foreign bidders see para. 8 of this PAI.

### **B. Advertising**

Advertising in the local language on a local web site or local newspapers of national circulation is acceptable. The period of posting shall be in accordance with national laws, rules, or regulations and at least once, and the posting date shall normally provide for about 30 days before the deadline for submitting bids. When specific notices are requested by executing agencies to be posted on [www.adb.org](http://www.adb.org), the procedures applicable to ICB advertising shall apply (PAI 3.03 Appendix 4).

### **C. Bidding Period**

This is defined as the period between the first day of advertising or the first day of issuing bidding documents, whichever is later, and the bid submission deadline. This could be shorter than for ICB; 4 weeks is normally acceptable.

### **D. Prequalification**

Prequalification is discouraged for procurement contracts using NCB. When used, particularly for works contracts, an individual prequalification exercise is acceptable for each contract as is the use of a registration system (or approved standing list) of contractors based on criteria such as experience, financial capacity, and technical capacity. Foreign bidders from eligible countries must, however, be allowed to register and to bid without unreasonable cost or additional requirements.

### **E. Contract Packaging**

Contracts shall not be split into smaller units in order to avail of less competitive procurement procedures, e.g., from ICB to NCB or from NCB to shopping.

### **F. Bidding**

#### Documents

1. The use of standard bidding documents is encouraged. Once ADB accepts the documents they must be used for all subsequent ADB-funded NCB procurement for the project. A copy of the bidding documents must be made available in English and submitted to ADB for review.
2. Bids can be submitted in the local language.
3. Bid prices and payment currency are generally limited to local currency.

4. Bid and performance security (if used) may be restricted to local banks or may be in forms different from those allowed by ADB for ICB provided they are authorized to be used by local procurement laws, rules, and regulations deemed acceptable as indicated in the NCB annex.
5. Factors, evaluation methodology, and evaluation criteria must be explicitly stated in bidding documents and applied consistently, and the contract award must be to the bidder that submitted the lowest evaluated, substantially responsive bid.
6. Specifications are to be unambiguous; international standards are not required.

#### Procedures

- 1) Public opening of bids and preparing a record of the opening are mandatory.
- 2) The use of multiple places for delivering and opening bids is unacceptable.
- 3) Bids should not be invited on the basis of a percentage premium or discount over the estimated cost.
- 4) For multiple-contract bidding, the recommended number of contracts to bid and evaluate at the same time is 5 to 8; however, if a greater number has to be taken up together in a single bidding exercise, alternatives to the application of least-cost combination may be considered as provided in local laws, rules, or regulations. This alternative method needs to have prior approval by ADB and to be specifically mentioned in the NCB annex.
- 5) Bracketing and lottery systems are not acceptable to ADB.
- 6) The estimated contract value may be published,<sup>1</sup> but bids should not be rejected only on the basis of a comparison with the executing agency estimate.
- 7) Extensions of bid validity may be sought only under exceptional circumstances.
- 8) Price negotiations with bidders before signing contracts are not acceptable except when all bids received are substantially higher than the estimate and ADB gives prior approval to negotiate a price reduction with the bidder that submitted the lowest evaluated, substantially responsive bid.

#### **G. Domestic Preference**

The ADB domestic preference policy or any other domestic preference policies are not applicable under NCB. When foreign bidders participate, comparisons will be made on the delivered price including import duties and taxes.

#### **H. Restrictions**

Restrictions on the sources of transportation and insurance are acceptable.

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<sup>1</sup> For each contract listed in the procurement plan, the estimated total value should be disclosed.

**I. Contract**

Price adjustments for inflation and settling disputes by local courts or local arbitration are acceptable.

**J. Consultation**

Staff should consult PPF on any unusual features of the entire NCB process, OGC on any specific legal issues, and the Controller's Department on unusual terms for payment provisions and/or contract currencies.

## **ADVERTISING NATIONAL COMPETITIVE BIDDING PROCUREMENT OF GOODS AND WORKS**

### **A. Advertising Locally**

1. As for international competitive bidding (ICB), disseminating information on procurement contracts is done by advertising invitations for prequalification or for bids. This is done locally, however, usually through an English language newspaper of general circulation in the country of the executing agency, or if required by local law, rules, and regulations through other media including the Internet and bulletin boards in the executing agency office premises.

2. There is no specific ADB rule on the posting period for the local advertisement other than as provided in local regulations unless so mentioned in the National Competitive Bidding (NCB) annex of the Procurement Plan. The guiding principle to follow in assessing local advertising is that it should provide the same and timely information to all potential bidders.

### **B. Publishing Notices on [adb.org](http://adb.org)**

3. The dissemination of information about forthcoming NCB contracts is satisfied once a general procurement notice (GPN) is posted on the ADB website. There is no mandatory requirement for publishing specific notices of NCB invitations for bids on [adb.org](http://adb.org); however, the posting on [www.adb.org](http://www.adb.org) of NCB specific notices for contracts for more than \$500,000 for goods and \$1 million for works is highly recommended.

4. Should an executing agency request publication of a specific notice for NCB procurement, this shall be encouraged and the procedures for ICB advertisements shall be adopted (PAI 3.03 Appendix 4). The minimum period allowed for preparing bids shall, however, be counted from the time of local advertisement or as noted in the NCB annex.