

Project Administration Instructions

PAI 3.06
Revised in June 2018
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OTHER METHODS OF PROCUREMENT

1. While international competitive bidding (ICB) is the recommended method of procurement to be used for ADB-financed projects, other methods may sometimes be more appropriate.

2. Next to ICB, national competitive bidding (NCB) is often the method requested by borrowers¹, as it utilizes local laws, rules, and regulations to the extent that they are acceptable to ADB. As NCB is separately discussed in PAI 3.05, the other methods of procurement are described here, in descending order of preference, in accordance with the ADB Procurement Guidelines para. 3.1.

A. Limited International Bidding

3. Limited international bidding (LIB) is essentially ICB by direct invitation without the required newspaper advertisement and also without domestic preference. LIB is an appropriate method of procurement when:

- (a) there is a limited number of known suppliers, and therefore of potential bidders (preferably at least three) who are likely to have an uncommon technical specialty, skill, or product;
- (b) the estimated contract amount is not large enough to interest foreign suppliers and contractors to undertake ICB; or
- (c) other exceptional circumstances exist that justify a departure from the full, open tendering provided under ICB such as when early delivery is of paramount importance for certain goods or works in disasters or emergencies, or when rebidding is necessary, the executing agency (EA) may invite bids from all the bidders who purchased the bidding documents at the first instance, or may invite bids only from the bidders who previously submitted the bids.

4. The standard bidding documents (SBDs) used for ICB may be simplified for use in LIB, but the invitation for bids, instructions to bidders, and conditions of contract can be used with little modification. A flowchart showing the main steps for procurement under LIB is provided in Appendix 1. For LIB procurement, the EA:

- issues written invitations for bids (providing clear technical specifications for the required goods and related services or works and the terms and conditions of purchase) to all bidders deemed able to provide the goods—preferably a minimum of three—with a minimum bidding period of 3 weeks;
- adopts the procedures for public bid opening; and
- evaluates the bids using ICB procedures.

5. The EA may optionally advertise the notice inviting bids in English (e.g., on its or the ADB website, in a local newspaper, or through notice to embassies) if there is a possibility that additional suppliers might be interested in the procurement in which case a minimum bidding period of 4 weeks may be adopted.

6. Contract packages proposed for LIB and provisions for prior or post review will be detailed in the procurement plan. The requirements for adopting LIB should be identified during project processing, fully justified, and agreed between Procurement, Portfolio and Financial Management Department (PPFD) and

¹ Throughout these PAIs, the term “borrower” includes “grant recipient.”

regional departments (RD). For contracts identified for LIB procurement in the procurement plan, review procedures for ICB shall be adopted. Since LIB is also ICB, the same levels of review and approving authority apply as indicated in PAI 3.03.

7. Unless otherwise indicated in the procurement plan, ADB review of subsequent contracts will generally occur after the award of the contract when the EA sends the following:

- copies of the signed contract;
- bidding documents;
- details of bid opening procedures including minutes of bid opening;
- bid evaluation report;
- results of the evaluation; and
- a certificate of eligibility of the contract if required by ADB.

These steps ensure fairness and transparency. ADB reserves the right to refuse to finance the contract if there is misprocurement. ADB, therefore, discourages the system of prior award of contract by the EA and after-the-fact approval by ADB unless the EA has sufficient funds to finance the contract if ADB declares misprocurement.

B. Shopping

8. Shopping is a simplified procedure used for procuring small-value, readily available, off-the-shelf goods or simple civil works of small value. When considering shopping, ADB should be satisfied that there are sufficient suppliers (or contractors for works) that can meet the requirements of the procurement, and should assure competitive prices by comparing a minimum of three quotations.

9. The single contract ceiling for shopping is currently set at \$100,000 for all borrowers but may be adjusted in consultation with the PPF, depending on the capacity of the borrower. Contracts worth more than the ceiling would normally be procured following NCB or ICB unless another method (such as direct contracting) has been specifically agreed in the financing agreement and procurement plan.

10. Project staff should recommend that EAs use the sample requests for quotation (RFQ) documents for inviting quotations from suppliers and contractors. A guidance note on conducting procurement by shopping is also available from PPF. Appendix 2 provides the following documents:

- i) Shopping for Goods Sample Request for Quotation;
- ii) Shopping for Works Sample Request for Quotation; and
- iii) Guidance on Shopping for Procurement.

11. Shopping is generally used for local procurement. Review and approval of the procurement are within the purview of the project divisions or resident missions administering the project.

C. Direct Contracting

12. Direct contracting involves contracting without competition (single source) of a particular manufacturer, supplier, or contractor, and is allowed by ADB in any of the following circumstances.

Procuring goods:

- if standardization is important and the equipment and spare parts needed to expand or repair existing equipment must be procured from the original supplier or from a supplier of identical goods;

- if the equipment or goods are proprietary and obtainable only from one supplier;
- if critical items are to be procured from specialized suppliers as a condition of a performance guarantee;
- if additional items are required under an existing contract that was awarded in accordance with ICB procedures beyond the normal limits for variations under the contract—ADB should be satisfied that no better offer is likely to be received under another procurement procedure and that the price to be paid is not more than the original price; usually, the repeat order should occur within 18 months of the original order, and the additional quantities should not exceed 30% of the original;
- in exceptional cases such as in response to natural disasters; and
- for very small-value items up to \$10,000 such as office equipment and consumables that the EA may purchase directly from a supplier.

Procuring works:

- if civil works are a natural extension of an earlier or ongoing job, or when engaging the same contractor is shown to be more economical and ensures compatibility of work quality; and
- in exceptional cases such as in response to natural disasters.

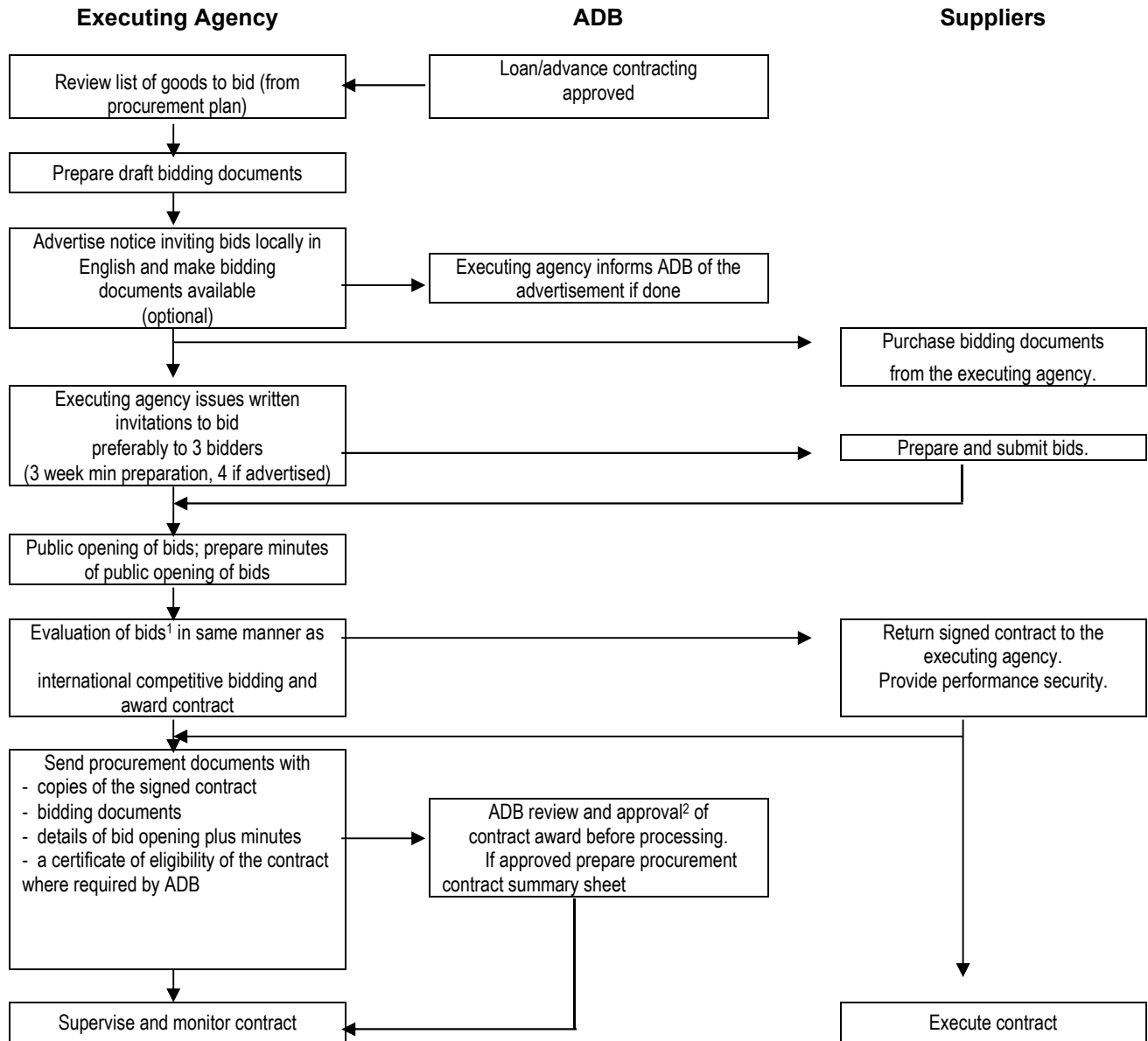
13. Staff should note that direct contracting for standardization may be justifiable if the original equipment is suitable and the possible advantages of having another make of equipment and an alternative supplier are outweighed. In the case of proprietary parts, if a number of distributors stock the same parts and are free to compete, they must be purchased through competitive bidding.

14. In direct contracting (negotiations) for extending civil works, the following must be shown:

- The original contract was awarded following ICB, LIB, or NCB acceptable to ADB.
- There is a valid and reasonable basis for unit rates that could be the unit rates of the earlier contract, adjusted in accordance with the provisions in the original contract to reflect any increase or decrease in the cost of construction.
- The contractor's performance has been satisfactory.
- The additional work may be unlikely to result in lower prices if subjected to bidding.

15. In all these cases, ADB must first be satisfied that preferred methods such as competitive bidding offer no advantage and that the prices to be paid under this noncompetitive method are reasonable, subject to verification. Contract packages to be procured using direct contracting are to be identified in the procurement plan and justified at the Management/Staff Review Meeting. Contracts for direct contracting shall always undergo prior review, except for small value contracts up to \$10,000.

Procurement under Limited International Bidding



¹ Conduct due diligence and confirm that no bidder is on ADB's Sanctions List

² ADB prior approval is strongly recommended for an inexperienced executing agency, or if the executing agency cannot demonstrate sufficient funds to finance the contract in case of an ADB refusal to approve the contract award. Staff must check the ADB sanction list prior to approving the contract

SHOPPING FOR GOODS
REQUEST FOR QUOTATION

Notes: (i) Shopping is a simplified procedure used for small-value, readily available off-the-shelf goods. When considering shopping, ADB should be satisfied that there are sufficient local and/or foreign suppliers (a minimum of three) that can meet the requirements of the procurement and ensure a satisfactory level of price competition. The threshold for shopping is currently set at \$100,000.

(ii) Alternate texts for some paragraphs are provided. The purchaser may select one option and delete the other(s).

Project Title: _____

Source of Funding: (loan/grant number)

Contract Ref: _____

Date of Issue of Request: _____

To: _____

Sir:

1. The _____ (Purchaser) hereby requests you to submit price quotation(s) for the supply of the following items:

- (i) _____
- (ii) _____
- (iii) _____
- (iv) _____

If you, however, have been associated with the firm that prepared the design and specifications of the contract that is subject of this procurement, you shall be disqualified.

To assist you in the preparation of your price quotation, we enclose the necessary technical specifications and required quantities.

2. You may quote for any or all of the items under this request. Each item shall be evaluated and contracts will be awarded separately to the firm(s) offering the lowest evaluated price for each item. **[Option: You must quote for all the items under this request. Price quotations will be evaluated for all the items together and contracts will be awarded to the firm offering the lowest evaluated total cost of all the items].**

3. You shall submit one original of the price quotation with the form of bid clearly marked "Original." In addition, you shall also submit one quotation marked as "COPY." Your quotation in the attached format should be signed, sealed in an envelope, and addressed and delivered to the following address:

Purchaser's Address : _____

Telephone : _____

[Option: Your price quotation on the form attached may be submitted by facsimile or electronically to the following address:]

Purchaser's Address : _____
Telephone : _____
Fax : _____

4. Your quotation in duplicate and written in _____ language should be accompanied by adequate technical documentation and catalogue(s) and other printed material or pertinent information (in _____ language) for each item quoted, including names and addresses of firms providing after-sales service facilities in _____ (name of the country).

5. The deadline for receipt of your quotation(s) by the Purchaser at the address indicated in Paragraph 3 is: _____

6. You shall submit only one set of quotations for the above items. Your quotation must be typed or written in indelible ink and shall be signed by you or your authorized representative. Without a signature, your quotation will not be considered further.

7. Your quotation(s) should be submitted as per the following instructions and in accordance with the attached Contract. The attached Terms and Conditions of Supply is an integral part of the Contract.

(i) PRICES: The prices should be quoted for supply and delivery to _____ (place of destination). Prices shall be quoted in the currency of the Purchaser.

(ii) EVALUATION OF QUOTATIONS: Offers determined to be substantially responsive to the technical specifications will be evaluated by comparing their prices. An offer is not substantially responsive if it contains material deviations or reservations to the terms, conditions, and specifications in this Request for Quotation, and it will not be considered further. The Purchaser will evaluate and compare only the quotations determined to be substantially responsive. In evaluating the quotations, the Purchaser will adjust for any arithmetical errors as follows:

(a) if there is a discrepancy between amounts in figures and in words, the amount in words will govern;

(b) if there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern;

(c) if a Supplier refuses to accept the correction, the quotation will be rejected.

In addition to the quoted price, the evaluated price shall include value-added tax (VAT) or its equivalent in _____ (Purchaser's country).

(iii) AWARD OF PURCHASE ORDER. The award will be made to the bidder offering the lowest evaluated price that meets the required standards of technical and financial capabilities. The successful bidder will sign the Contract as per attached form of contract and terms and conditions of supply.

(iv) VALIDITY OF THE OFFER: Your quotation(s) should be valid for a period of thirty (30) days from the deadline for receipt of quotation(s) indicated in Paragraph 5 of this Request for Quotation.

(v) If you withdraw your quotation during the validity period and/or refuse to accept the award of contract when and if awarded, you will be excluded from the list of suppliers for the project for

2 years.

8. Further information can be obtained from:

Telephone: _____
Fax: _____
E-mail: _____

9. The bidder whose quotation has been accepted will be notified of the award of contract through the Letter of Acceptance issued by the Purchaser within ____ days from the date of submission of quotation.

10. The Purchaser intends to apply funds from the Asian Development Bank (ADB) for eligible payments under the Purchase Order resulting from this Request for Quotation.

11. Under the ADB Anticorruption Policy, bidders shall observe the highest standard of ethics during the procurement and execution of contracts. ADB will reject a proposal for award and will impose sanctions on parties involved if it determines that the bidder recommended for award or any other party has engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. At the time of submission of your quotation, you should not be on the ADB sanction list.

12. Please confirm by fax/email the receipt of this request and whether or not you will submit the price quotation(s).

Sincerely,

(Purchaser)

FORM OF CONTRACT

THIS AGREEMENT number _____ made on _____, ____ 20__, between
_____ (hereinafter the Purchaser) on the one part and
_____ (hereinafter the Supplier) on the other part.

WHEREAS the Purchaser has requested a quotation for _____ (description of goods) to be
supplied by the Supplier, viz. Contract _____, (hereinafter Contract) and has accepted the bid by the
Supplier for the supply of goods under the Contract for the sum of _____
_____ (hereinafter Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The following documents shall be deemed to form and be read and construed as part of this agreement,
viz:
 - a) Request for Quotation; Terms and Conditions of Supply, Technical Specification;
 - b) Addendum (if applicable);
2. Taking into account payments to be made by the Purchaser to the Supplier as hereinafter mentioned,
the Supplier hereby concludes an agreement with the Purchaser to execute and complete the supply
of goods under the Contract and to remedy any defects therein in conformity with the provisions of the
Contract.
3. The Purchaser hereby covenants to pay the Contract Price, in consideration of the acceptance of
Contract, for the supply and delivery of the goods and remediation of defects therein in accordance
with Payment Conditions prescribed by the Contract.

IN WITNESS whereof the parties hereto have executed the Contract under the laws of _____
(country of Purchaser) on the date indicated above.

Signature and seal of the Purchaser:
FOR AND BEHALF OF

Signature and seal of the Supplier:
FOR AND BEHALF OF

Name of Authorized Representative

Name of Authorized Representative

TERMS AND CONDITIONS OF SUPPLY

Project Name: _____ Purchaser: _____
Consignee: _____ Package No. _____

1. Schedules for Supply

<u>S. No.</u>	<u>Item No.</u>	<u>Quantity</u>	<u>Delivery Time</u>
---------------	-----------------	-----------------	----------------------

1.
2.

<u>Spare Parts</u>			}
<u>Tools and Accessories</u>		}	}
<u>Manuals</u>			} Specify, if applicable.
<u>Maintenance Requirements</u>			}

2. Fixed Price: The prices indicated above are firm and fixed and not subject to any adjustment during contract performance.

3. Delivery Schedule: The delivery should be completed as per above schedule but not exceeding _____ months from the date of signing the Contract.

4. Insurance: The goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. The insurance shall be in an amount equal to 110% of the value of the goods on an "all risks" basis.

5. Applicable Law: The Contract shall be interpreted in accordance with the laws of the Purchaser's country.

6. Resolution of Disputes: The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute between them under or in connection with the Contract. In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled in accordance with the provisions of the _____ (arbitration law or rules of the Purchaser's country).

7. Delivery and Documents: Upon delivery/shipment, the Supplier shall provide the following documents to the Purchaser:

- (i) copies of the Supplier's invoice showing goods' description, quantity, unit price, and total amount;
- (ii) manufacturer's or supplier's warranty certificate; and
- (iii) certificate of origin.

If goods are coming by courier, the Supplier shall also provide prior to delivery copies of documents that will enable Purchaser to receive the goods. The above documents shall be received by the Purchaser at least 1week before the arrival of the goods and if not received, the Supplier shall be responsible for any consequent expenses.

8. Payment: Payment of the contract price shall be made in the following manner:

- a) (Optional advance payment) 10% within 14 days of signing the Contract. Payment shall be made upon presentation by the Supplier of verifiable proof of the availability of goods ready for shipment/delivery.
- b) 90% (or 80% if advance payment was made) upon receipt by the Purchaser of the delivered goods on site in accordance with the contract; and
- c) 10% upon acceptance of the delivered goods by the Purchaser.
9. Warranty: Goods offered should be covered by manufacturer's warranty for at least 12 months from the date of delivery to the Purchaser.
10. Defects: All defects will be corrected by the Supplier without any cost to the Purchaser within 30 day from the date of notice by Purchaser. The name and address of the service facility where the defects are to be corrected by the supplier within the warranty period are:
Address _____

11. Force Majeure: The Supplier shall not be liable for penalties or termination for default if and to the extent that any delay in performance or other failure to perform its obligations under the Contract is the result of an event of force majeure.

For purposes of this clause, "force majeure" means an event beyond the control of the Supplier and not involving the Supplier's fault or negligence and that was not foreseeable. Such events may include but are not restricted to acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

If force majeure arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract to the extent they are reasonably practical and shall seek all reasonable alternative means for performance not prevented by force majeure.

12. Required Technical Specifications:
- (i) General description
 - (ii) Specific details and technical standards
 - (iii) Performance parameters

The Supplier confirms compliance with above specifications [Note: In case of deviations the Supplier should list all of them.]

13. Failure to Perform: The Purchaser may cancel the agreement if the Supplier fails to deliver the goods in accordance with the above terms and conditions in spite of a 14-day notice given by the Purchaser without incurring any liability to the Supplier.

NAME OF SUPPLIER: _____

Authorized Signature : _____

Place: _____

Date : _____

FORM OF QUOTATION

To: _____ (Purchaser's name)
_____ (Purchaser's address)

We offer to execute the _____ (name and number of Contract) in accordance with the Conditions of Contract accompanying this Quotation for the Contract Price of _____ (amount in words and numbers) (_____) (name of currency) _____. We propose to complete the delivery of goods described in the Contract within the following delivery time from the date of signing the Contract.

Prices and Schedules for Supply

<u>S. No.</u>	<u>Item No.</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>	<u>Delivery Time</u>
1.					
2.					
	<u>Spare Parts</u>		}		
	<u>Tools and Accessories</u>	}	}		
	<u>Manuals</u>		}		} Specify, if applicable.
	<u>Maintenance Requirements</u>		}		

This Quotation and your written acceptance will constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Quotation you receive.

We hereby confirm that this Quotation complies with the validity of the Quotation and warranty conditions required in the Request for Quotation.

Authorized Signature: _____

Name and Title of Signatory _____

Name of Supplier: _____

Address : _____

Phone number : _____

Fax number, if any _____

SHOPPING FOR WORKS
REQUEST FOR QUOTATION

Notes: (i) Shopping is a simplified procedure used for simple civil works of low value. When considering shopping, ADB should be satisfied that there are sufficient local contractors (a minimum of three) that can meet the requirements of the procurement and ensure a satisfactory level of price competition. The threshold for shopping is currently set at \$100,000.
(ii) Alternate texts for some paragraphs are provided. The Employer may select one option and delete the other(s).

Project Title: _____

Source of Funding: (loan/grant number)

Contract Ref: _____

Date of Issue of Request: _____

To: _____

Sir:

1. The _____ (Employer) hereby requests you to submit a quotation for the following works:

.....
.....

(Brief description of works)

If you, however, have been associated with the firm that prepared the design, specifications, or engaged in the preparation of the project or with the firm that will provide supervision of the works, you shall be disqualified.

To assist in the preparation of your price quotation, the necessary specifications, bill of quantities and drawings, form for submitting the quotation and a draft contract form are enclosed. You are advised to visit the site of the works at your own expense and to obtain necessary information for preparing your quotation.

2. You shall submit one original of the Price Quotation with the Form of Quotation clearly marked "Original." In addition, you shall also submit one quotation marked as "COPY."

3. Your quotation in the attached format should be signed, sealed in an envelope, and addressed to and delivered at the following address:

(Employer's Address)

[Option: Your price quotation on the form attached may be submitted by facsimile or electronically at the following address:]

(Employer's Address)

4. You must have experience as a prime contractor in the construction of at least one work of the nature and complexity equivalent to the works included in this Request for Quotation in the last 3 years as evidenced by a client's certificate of completion, and you must provide evidence of availability of financial resources to successfully complete the works in the amount of [Employer to indicate here the required amount, which could be the estimated value of the contract for which the quotation is invited and could be in the form of a credit line]. Otherwise, you will not be considered further.

5. You shall submit only one quotation. Your quotation must be typed or written in indelible ink and shall be signed by you or by your authorized representative. Without a signature on your Form of Quotation, your quotation will not be considered further.

6. In evaluating the quotations, the Employer will adjust for any arithmetical errors as follows:
(a) if there is a discrepancy between amounts in figures and in words, the amount in words will govern;
(b) if there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern;
If you refuse to accept the correction, your quotation will be rejected.

7. Your quotation shall be valid for a period of thirty (30) days from _____ (deadline for submission of the quotation).

8. Your quotation in duplicate and written in _____ language shall be for the whole works and based on the unit and total price indicated in the filled-in Bill of Quantities for a fixed unit rate contract **[for a lump sum contract replace Bill of Quantities with Priced Activity Schedule]**. The currency of the quoted prices and payment shall be _____ (specify currency of the Employer's country). The quotation shall include all duties, local taxes, and other levies payable by the Contractor in accordance with the local laws.

8. The Employer will award the contract to the Contractor whose quotation has been determined to be substantially responsive to this Request for Quotation and who has offered the lowest evaluated price quotation. A quotation is not substantially responsive if it contains material deviations or reservations to the terms, conditions, and specifications in this Request for Quotation, and it will not be considered further. The Employer will evaluate and compare only the quotations determined to be substantially responsive.

10. If you withdraw your quotation during the validity period and/or refuse to accept the award of a contract when and if awarded, you will be excluded from the list of contractors for the project for 2 years.

11. The contract will be governed by the terms and conditions of the attached draft Contract.

12. Your quotation including Form of Quotation and filled-in Section 2 “Bill of Quantities/Priced Activity Schedule” should be submitted by _____ (date and time). [The quotations shall be opened in public in the presence of contractors’ representatives who choose to attend, on _____ (same date as for bid submission) at _____ the following address.]

[Option: Omit the text in parenthesis when submission is permitted by facsimile or by electronic means.]

13. The bidder whose quotation has been accepted will be notified of the award of contract through the Letter of Acceptance issued by the Employer within ____ days from the date of submission of quotation.

14. The Employer intends to apply funds from the Asian Development Bank (ADB) for eligible payments under the Contract resulting from this Request for Quotation

15. Under the ADB Anticorruption Policy, bidders shall observe the highest standard of ethics during the procurement and execution of such contracts. ADB will reject a proposal for award and will impose sanctions on the parties involved if it determines that the bidder recommended for award or any other party has engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. At the time of submission of your quotation, you should not be on the ADB sanctions list.

16. Please confirm by fax/email the receipt of this request and whether or not you will submit the price quotation(s).

Sincerely,

(Employer)

SECTION 1 - SPECIFICATIONS

SECTION 2 - BILL OF QUANTITIES/PRICED ACTIVITY SCHEDULE

SECTION 3 - DRAWINGS

FORM OF CONTRACT

Name of Country:

Project Name:

Name of Contract: _____

Contract number: _____

This Contract is made this _____ day of _____ 201_ between _____ on the one part (hereinafter Employer) and _____ (hereinafter Contractor) on the other part.

Whereas the Employer has called for quotations for (name and identification number of the contract) and the Contractor has submitted a quotation for the above work and the Employer has accepted the Contractor's quotation dated _____ for the execution and completion of such works and the remediation of any defects therein.

Now this Contract witnesses as follows:

1. The Contractor hereby covenants to execute the works fully detailed in the Bill of Quantities included in the Contractor's Quotation which constitute an integral part of this Contract (Annex 1) in a professional and workmanship-like manner in accordance with the following Conditions of Contract.

- (a) The Contractor will remedy all defects within 30 days of notification by the Engineer in charge during the period of execution of the contract and thereafter defects notified within the defect liability period.
- (b) The Employer reserves the right to terminate the contract due to unsatisfactory performance 21 days after giving a written notice. If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Engineer in charge shall certify that the contract has been frustrated. In such an event, both the Employer and Contractor will have the right to terminate the contract by giving 21 days' notice to the other party without any financial repercussions on either side. Payments after termination or frustration shall consider the value of work completed and materials delivered by the Contractor and the advance payment made by Employer;
- (c) All material and construction equipment on site, temporary works, and works shall be deemed to be the property of the Employer if the contract is terminated due to the fault of the Contractor.
- (d) The Contractor will in all cases abide by the directions of the Engineer in charge.
- (e) The Contractor shall submit a program to the Engineer in charge within 7 days after signing the contract describing the general methods and schedule to complete the works.
- (f) The Contract completion period is _____ (months) after signing of the contract.
- (g) No part of the works shall be subcontracted without prior approval of the Employer.

- (h)
- (i) If there are variations in quantities, unit rates under the contract will be used to support the variation order. New items of work performed as ordered by the Engineer in charge will be paid at the mutually agreed rate and in case of any disagreement between the Contractor and the Engineer in charge, the latter will fix the unit rates that will be binding on the Contractor.
- (j) The laws governing the contract shall be applicable laws of _____ (Employer's country);
- (k) The Contractor shall be responsible for the safety of all the activities on the site.
- (l) During the execution of works, the Engineer in charge, _____, (name) will inspect the works at the site to verify they are executed by the Contractor in accordance with the specifications and required quality as per specifications. The Engineer in charge will reject works not performed to the required specifications, and the Contractor shall take immediate actions to rectify all defects in accordance with subparagraph (a) above.
- (m) Either party may terminate the Contract by giving 30 days' notice to the other for unforeseen events such as wars and events of force majeure such as earthquakes, floods, or fires. In such cases payments will be made to the date of termination of the Contract.
- (n) The Contractor is responsible for all taxes, duties, or levies in accordance with the laws of _____ (Employer's country).
- (o) Any disputes arising between the Employer and the Contractor under or in connection with the Contract shall be resolved amicably. *In the case of a dispute between the Employer and the Contractor remains unresolved, the dispute shall be settled in accordance with the provisions of the ___ (Arbitration law or rules of the Employer's country).*
2. In consideration thereof the Employer covenants to pay the Contractor the contract price of _____ (in words and figures) in the following manner and installments:
- (i) An advance payment of 15% of the Contract sum will be paid upon the Contractor's bringing to the work site the following items and the Engineer in charge certifying they are present: (1) at least 50% of all materials to be incorporated in the works or all materials to be consumed within 3 months whichever is less, and (2) all equipment required for the construction.
- (ii) Four subsequent installments, payments will be made at the rate of 20% of the contract amount. Each installment will be due for payment within 21 days of submitting an invoice when the value of the work actually performed calculated on the basis of unit prices and quantities reaches 20% of the contract amount.
- (iii) The final payment of the remaining 5% of the contract amount shall be made upon completion of the works certified by the Engineer in charge.
- Payments shall be made to the Contractor within 28 days of the date of the payment request submitted by the Contractor after it has been certified by the Engineer in charge.
3. The defect liability period will be _____ (months) after taking over of completed works by the Employer.

In witness whereof the parties thereto have caused this Contract to be executed the day and year first

before written.

Signature and seal of the Employer:
FOR AND BEHALF OF

Authorized Representative

Signature and seal of the Contractor:
FOR AND BEHALF OF

Name of Authorized Representative

FORM OF QUOTATION

_____ (Date)

To: _____ (Employer's Name)

_____ (Employer's Address)

We offer to execute the _____ (name and number of the Contract) in accordance with the Conditions of Contract accompanying this Quotation for the Contract Price of _____ (amount in words and numbers) (_____) (name of currency) _____. We propose to complete the works described in the Contract within a period of _____ months from the date of signing the Contract.

This Quotation and your written acceptance will constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Quotation you receive.

We hereby confirm that this Quotation complies with the Validity of the Quotation required by the proposal documents.

Authorized Signature: _____
Name and Title of Signatory _____

Name of Contractor: _____
Address: _____

Phone number _____

Fax number, if any _____

[A filled-in "SECTION 2 – BILL OF QUANTITIES/PRICED ACTIVITY SCHEDULE" together with unit prices and total calculations should be attached to Form of Quotation.]

LETTER OF ACCEPTANCE

Date: _____

To: _____ *[Name and address of the Contractor]*

Dear Sir or Madam,

This is to notify you that your Quotation dated _____ for the execution of the *[name and number of the Contract]* for the Contract price of _____ *[amount in words and figures]*, as corrected and modified in accordance with the Instructions to Bidders has been accepted by us.

You are also requested to sign the attached contract form and commence construction of the works not later than _____ and ensure the completion of the works within the construction period specified in the contract.

For and on behalf of the Employer:

Authorized signature: _____

Name of signatory : _____

Title: _____

GUIDANCE ON PROCUREMENT BY SHOPPING

General

1. This note gives guidance on the use of shopping as a procurement method which is prescribed in para. 3.5 of the ADB Procurement Guidelines. It is considered as local procurement conducted within a borrowing member country, although foreign bidders from other ADB member countries have the right to offer quotations as well. Shopping is intended to be a simple and rapid method of procurement but is one of the least competitive methods and may be abused.

When is Shopping Appropriate?

2. Shopping may be used when more competitive methods are not justified on the basis of cost or efficiency such as:

- (a) procuring small amounts of off-the-shelf goods or standard specification commodities;
- (b) engaging contractors for simple civil works of small monetary value; and
- (c) procuring contracts with a combination of off-the-shelf goods and very urgent minor civil works such as in emergency projects or relief operations including re-establishing vital services like utilities, communication networks, shelters, and supplies after natural disasters or conflicts.

3. Because of the risk of abuse, shopping is restricted to cases when the justification for it is beyond contention. ADB staff should ensure that borrowers shall not use shopping only as a way to bypass more competitive methods and shall not divide large procurements into smaller contracts solely to allow the use of shopping.

4. When the nature of the specifications is complex or the type of procurement requires an elaborate, detailed evaluation system (i.e., efficiencies, delivery times) that needs substantial documentation, or when the work requires more than simple construction tools and equipment, a formal bidding process is used. Shopping is not appropriate in these cases because it should not require complex documentation or all the formalities of competitive bidding.

Thresholds

5. Generally, the threshold for shopping does not exceed \$100,000, but project teams may set lower thresholds when the executing agency is considered to be at medium or high risk in administering procurement on the basis of the executing agency procurement risk assessment.²

Number and Origin of Quotations to be Compared

6. The guidelines require the purchaser/employer to obtain and compare at least three quotations to establish reasonable prices. Comparing two quotations is justified only when there is evidence satisfactory to ADB that there are only two reliable sources of supply. It is possible that not all the suppliers invited will respond to the request for quotations. To minimize the risk of getting only one or two quotations, executing agencies are advised to initially request or invite more than three quotations and may also at the time of the request verify whether those invited will make an offer. Executing agencies may also combine direct

² Refer to PAI 3.02.

invitations with local advertisements.

Firms to be Invited

7. The borrower exercises due diligence to satisfy itself that the firms invited to quote are reputable, well established, and are suppliers of the goods or services to be purchased as part of their normal business. If the borrower receives unsolicited quotations, they may be accepted after similar due diligence to verify the nature and reputation of the firms. Civil works contractors registered with local government units but not with national agencies may be invited. It is preferable not to invite the same firms for several contracts using shopping unless other firms are not known to exist in the project location. In all cases, due diligence includes checking the ADB sanction list. The process should be open to whomever wants to bid even if not invited.

Form of Requests

8. The purchaser/employer requests quotations by letter, fax, telex, or electronic messaging (with proof of receipt and record keeping). The request includes the description and quantity of the goods, as well as the required delivery time and place for the goods or services, including any installation requirements as appropriate. The request indicates the date by which the quotations are needed. In the extremely urgent cases described in para. 2 (c) (restoration of vital services), quotations for civil works may be requested in the form of unit rate prices (if work quantities are available with a reasonable degree of reliability), "cost plus fee" arrangements (when quantities cannot be reasonably determined in advance) or in the form of a lump sum based on cost estimates carried out by the borrower, or if not possible by the contractors.

Prices and Currencies

9. Prices for goods (including previously imported items) are requested to be quoted EXW (ex works, ex factory, ex warehouse ex show room or off-the-shelf as applicable) including all customs duties and sales and other taxes already paid or payable on the raw materials and components. Prices for civil works are requested inclusive of all taxes and duties payable by the contractor. Prices are to be quoted in the local currency.

Submission of Quotations

10. Suppliers submit their quotations in writing, i.e., by fax, telex, letter, or electronic messaging (copies to be kept for the records). No bid or performance securities are required. There is no requirement for a strict time and date for submitting quotations and for public opening, but normally requests for quotations indicate the expected date of submission of quotes within 1 or 2 weeks of the initial request. If the purchaser/employer has not received at least three quotations within the time set, it may verify with the suppliers who did not submit quotations whether and when they intend to do so. Unless there is extreme urgency or there are already three or more quotations available, the client may give a reasonable amount of additional time, e.g., 3 more days, to get additional quotations. Thereafter, the executing agency may proceed to compare the proposals received.

Comparison of Quotations

11. Quotations are compared in terms of prices up to the final goods destination or works location. This may require adding the estimated cost of inland transportation and insurance, if any to the quoted price for goods. If the executing agency intends to consider factors other than just the lowest price, the intention should be indicated in the request for quotation. For example, a slightly higher price may be justified for

faster delivery or immediate availability in cases of extreme urgency when late delivery may result in heavy consequences for the purchaser. Thus, the minimum overall evaluated price would be a combination of price and delivery time, in which case delivery time would be evaluated in monetary terms and added to price.

Record of Award

12. The client documents the award decision and its rationale and keeps it for review and audit by ADB as needed. The record also contains the list of firms invited and the list and value of the quotations received. The executing agency must clearly demonstrate that the award is based on sound economic criteria.

Review Requirements

13. Because of their small monetary value and nature, project procurements using shopping are normally subjected to post ADB review rather than prior review. Because of the risk of abuse, however, shopping needs close supervision. The project division may conduct post review of contracts during ADB supervision missions but in any case should ensure that a representative sample of procurement by each executing agency using shopping is reviewed.

Questions

14. Any questions on the use of shopping should be addressed to the Procurement, Portfolio and Financial Management Department of ADB.