SUBCONTRACTING
GUIDANCE NOTE ON PROCUREMENT
JUNE 2018
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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 The notes may be updated, replaced, or withdrawn from time to time.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
2. Procurement Risk Framework
3. Strategic Procurement Planning
4. Procurement Review
5. Alternative Procurement Arrangements
6. Open Competitive Bidding
7. Price Adjustment
8. Abnormally Low Bids
9. Domestic Preference
10. Prequalification
11. Subcontracting
12. Consulting Services Administered by ADB Borrowers
13. Nonconsulting Services Administered by ADB Borrowers
14. High-Level Technology
15. Quality
16. Bidding-Related Complaints
17. Noncompliance in Procurement
18. Standstill Period
19. State-Owned Enterprises
20. E-Procurement
21. Framework Agreements for Consulting Services
22. Public–Private Partnerships
23. Contract Management
24. Fragile, Conflict-Affected, and Emergency Situations
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.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>VFM</td>
<td>value for money</td>
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</table>
This guidance note explains ADB’s requirements on the treatment of subcontractors by borrowers (including grant recipients) for the procurement and implementation of goods, works, and plant. It distinguishes three types of subcontractor under projects financed in whole or in part by an ADB loan or grant, or by ADB-administered funds: (i) those nominated by the borrower that all bidders must use, (ii) those specialist subcontractors that bidders may propose to deliver highly specialized equipment or key contract activities, and (iii) those subcontractors that bidders may propose for other purposes. It highlights risks to quality and supply chain integrity that can occur through subcontracting and suggests ways for borrowers to mitigate those risks.

Appropriate treatment of subcontractors by the borrower may

**Reduce Risk and Improve Quality**

- Borrowers can impose obligations on the contractor during the bidding, bid evaluation, and implementation stages, to ensure that subcontractors are suitably qualified and follow the same contractual terms as the contractor on issues of performance and integrity.
- Actions that can be taken by the borrower include: (i) assessing subcontractors during the prequalification and/or bidding stages; (ii) evaluating bidders’ historical ability to manage subcontractors; (iii) using contractual terms that obligate the contractor to replicate the same terms in its subcontracts, including the borrower’s right to audit its subcontractors; (iv) ensuring the contract clearly describes when and how a subcontractor may be replaced or added during implementation; and (v) including subcontractors in contract management meetings and contract reporting requirements.

**Increase Efficiency and Reduce Procurement Time**

- Ensure an appropriate amount of the borrower’s due diligence and risk mitigation on subcontractors, based on the complexity of the project.
Improve Value for Money

- Subcontractors can contribute highly specialized skills and equipment not available to main contractors and can supplement the resources of main contractors, enabling higher levels of quality, access to technology, and reduced project timelines, increasing value for money.
I. Introduction

1.1 This guidance note discusses subcontracting as it applies in the procurement of goods, works, and plant in projects financed in whole or in part by a loan or grant from the Asian Development Bank (ADB), or by ADB-administered funds. Its purpose is to communicate (i) the risks associated with subcontracting, (ii) the mitigating actions that borrowers (including grant recipients) may consider, and (iii) ADB's requirements on subcontracting. With this knowledge, borrowers can reduce project risks and improve its value for money.

1.2 In the procurement context, a “subcontractor” broadly refers to a supplier of goods, works, plant, and/or related services that has entered into a contractual arrangement with an entity (e.g., a main contractor) to perform a portion of a contract for which the entity has been contracted. Subcontracting is relevant at the procurement planning, prequalification, bidding, bid evaluation, contract award, and implementation stages of the ADB procurement cycle (Figure 1).

1.3 In the context of this guidance note, the following general definitions apply:

(i) “Applicant” refers to a party that submits an application for prequalification for a particular works contract or plant contract.
(ii) “Bidder” refers to a supplier or contractor who is considering submitting, or has submitted, a bid for a contract to the borrower.
(iii) “Contractor” refers to a bidder to whom the borrower has awarded a contract.
(iv) “Subcontractor” refers to an entity who takes a portion of a contract from the main contractor or another subcontractor.

1.4 The contractor is responsible for the performance of its subcontractors. Using subcontractors does not relieve the contractor of its obligations, responsibilities, or liabilities under the contract. The borrower contracts with the bidder and has no legal relationship with the subcontractor. Figure 2 gives an example of contractual relationships between a main contractor and subcontractors/manufacturers who have been contracted to construct a power plant.

1 Refer to the prequalification and bidding documents, as applicable, for specific definitions of each term.
Figure 1: Subcontracting within the ADB Procurement Cycle

Figure 2: Example of a Subcontracting Hierarchy

Bidders may subcontract for several reasons:

(i) The inclusion of a highly qualified, experienced, reputable subcontractor may improve a bidder’s possibility of being selected for a contract.

(ii) Bidders do not always have the capacity or resources to fulfill all tasks required in a contract, and thus subcontract part of the contract to utilize the resources of a subcontractor.

(iii) Bidders may wish to take advantage of specialized services from companies that have developed special skills in certain areas.

(iv) Subcontractors may be able to carry out portions of a contract at a lower cost than the bidder’s internal resources.

(v) Bidders may wish to share contract risk with subcontractors rather than carry all the risk themselves.

The contractor may use subcontractors to perform its obligations under contracts for the supply of goods, works, or plant, to the extent permitted in the bidding document used.
2.1 There are three types of subcontractor as described in Box 1.

**Box 1**

**Types of Subcontractors**

**Nominated Subcontractor.** A subcontractor retained by the borrower to perform a prespecified portion of the contract and nominated by the borrower as a subcontractor to the main contractor for such purpose. All bidders are required to use the same nominated subcontractor for that portion of the contract.

**Specialist Subcontractor.** A subcontractor engaged for highly specialized equipment or key activities that may not be provided by the bidder. The definition of “highly specialized equipment or key activities” is normally predetermined by the borrower (depending on the nature of the contract) and specified in the bidding documents.

**Other Subcontractor.** A subcontractor other than a nominated or specialist subcontractor.


2.2 Borrowers should have a strong rationale for the proposed use of a nominated subcontractor. They should not be used unless it is essential. The use of a nominated subcontractor will relieve the contractor to some extent of its obligations under the contract. If a nominated subcontractor fails to perform its obligations, the contractor has a defense in place for its own nonperformance. No such defense is possible when a contractor is left free to select its own subcontractors. Examples of where nominated subcontractors may be justified are for the standardization of plant and equipment across multiple sites or when only one (or few) subcontractor has the mandate to perform the relevant tasks in the borrower’s country. Section V gives further requirements for nominated subcontractors.
3.1 Since the contractor is responsible for the performance of its subcontractors, the borrower could assume that they would have little reason to concern themselves with subcontractors. However, there are two primary risks associated with subcontractors that can impact the borrower: the impact on contract outcomes, and the impact on supply chain integrity. Box 2 further describes these risks.

**Box 2**

**Subcontractor Risks**

**Risk of Subcontractor Impact on Project Outcomes**

The contractor is responsible for the performance of its subcontractors, but the underperformance of subcontractors for whatever reason, such as insolvency disputes or incompetence, can adversely impact contract performance and contract outcomes—specifically on schedule, quality, and cost. While contractual responsibility rests with the contractor, the borrower needs to undertake its own due diligence regarding the proposed specialist or other subcontractors to mitigate potential risks.

**Supply Chain Integrity Risk**

The contractor and its hierarchy of subcontractors can pose reputational and integrity-related risks to the supply chain through unethical practices or negligence. Examples include

- child labor or forced labor;
- unsafe or unhealthy workplace conditions;
- illegal worker payment and conditions;
- limitations of the right to freedom of association; and
- illegal or negligent environmental practices, such as dumping of waste and pollution.

The borrower should, to the extent practical, ensure that these practices do not occur on the contract: (i) because of the harm that they cause, (ii) as they are illegal, and (iii) because of the reputational impacts these practices may have on the borrower and ADB.


3.2 Examples of actions that can and should be taken by the borrower to reduce its subcontractor risks are described in section IV.
IV. Mitigating Risks of Subcontracting

4.1 Table 1 describes mitigating actions that a borrower can take to reduce subcontractor risks. These are described further in the following subsections. Mitigating actions can occur at the bidding, bid evaluation, and implementation stages of the procurement cycle.

<table>
<thead>
<tr>
<th>Subcontractor Risks</th>
<th>Causes</th>
<th>Mitigating Actions by the Borrower</th>
</tr>
</thead>
</table>
| Risk of subcontractor adversely impacting contract outcomes | • Subcontractor underperformance  
• Subcontractor insolvency  
• Disputes between subcontractor and contractor  
• Incompetence  
• Inability or unwillingness of contractor to manage subcontractor performance | • Subcontractor prequalification  
• Subcontractor qualification at bid stage  
• Contract requirement to replicate certain contract terms from the main contract to its subcontracts  
• Audit rights in subcontracts  
• Evaluation of the contractor’s ability to manage subcontractors  
• Contract management activities  
• Contract reporting |
| Supply chain integrity risk | • Use of child labor or forced labor  
• Unsafe or unhealthy workplace conditions  
• Illegal worker payment and conditions  
• Limitations of the right to freedom of association  
• Illegal or negligent environmental practices, such as dumping of waste and pollution | |

A. **Subcontractor Prequalification**

4.2 Subcontractors are generally not prequalified during prequalification of applicants, since details of the borrower’s requirements are not yet provided to applicants and because relationships between the applicant and subcontractors may change in the period between prequalification and bidding. Instead, subcontractors are usually evaluated and qualified at the bidding stage (refer to the Guidance Note on Prequalification).

4.3 However, prequalification of subcontractors during prequalification of applicants may be warranted where (i) the subcontractor is critical to the success of the contract or represents a significant portion of the contract, and (ii) the details of the contract may be sufficiently defined to the extent that subcontractor’s qualifications may be evaluated. Borrowers should use caution when taking this approach as it is inflexible. The contractor may only bid in association with the subcontractors with which it prequalified.

B. **Contract Requirement to Replicate Certain Contract Terms in Subcontracts**

4.4 While the contract awarded will be between the borrower and the contractor, some of the obligations that are imposed on the contractor should also be imposed on the subcontractor, either by law (e.g., laws relating to health and safety, eligibility, environment, and labor requirements) or by conditions imposed on the contractor that the contract requires to be included in subcontracts between the contractor and its subcontractors.

4.5 The borrower may require that terms and conditions in the contract be included in subcontracts to ensure that subcontractors are subject to the same requirements as the contractor in areas such as conflict of interest, workplace health and safety, child labor, and other risks to supply chain integrity, and in obligations to report on supply chain integrity compliance and performance. The contractor shall ensure that these obligations are imposed on its subcontractors.

4.6 Obligations imposed on subcontractors by or through the contractor shall include those described in Table 2.
Contract Term | Specific Obligation
---|---
ADB’s Anticorruption Policy and ADB’s Integrity Principles and Guidelines | Contractors and subcontractors are prohibited from engaging in corrupt, fraudulent, collusive, coercive, or obstructive practices, or conflict of interest or other integrity violations, as defined in ADB’s Anticorruption Policy (1998, as amended to date) and ADB’s Integrity Principles and Guidelines (2015, as amended from time to time) and are subject to remedial actions that ADB may impose, including being declared ineligible, either indefinitely or for a stated period of time, to participate in or benefit from a contract that ADB finances, administers, or supports, financially or otherwise.

Eligibility | Subcontractors will not be eligible to participate in or benefit from a project that ADB finances, administers, or supports while under temporary suspension or debarment by ADB, pursuant to ADB’s Anticorruption Policy (1998, as amended to date) and ADB’s Integrity Principles and Guidelines (2015, as amended from time to time), whether such debarment was directly imposed by ADB, or enforced by ADB pursuant to the Agreement for Mutual Enforcement of Debarment Decisions (2006).

Confidentiality | Contractors must ensure that any confidentiality provisions contained in the contract apply equally to subcontractors.

Insurance | The contractual requirement for the contractor to hold insurance against liability for claims, damages, losses, and expenses arising from injury, sickness, disease, or death of any person employed by the contractor must also apply to subcontractors. The contractor is responsible for subcontractor compliance with this requirement.

Inspection | Contractors must ensure that their subcontractors keep accurate and systematic accounts and records with respect to the procurement and contract, and that they permit ADB to inspect such accounts and records and to have them audited by auditors appointed by ADB.

Force Majeure | Events of force majeure may apply equally to subcontractors. However, if any subcontractor is entitled to relief from force majeure on terms additional to or broader than those specified in the contractor’s contract, such additional or broader force majeure events or circumstances cannot excuse the contractor’s nonperformance or entitle it to relief under its contract with the borrower.

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ADB = Asian Development Bank.


C. Audit Rights in Subcontracts

4.7 As in Table 2, the contract should include a requirement for the contractor to incorporate in its subcontracts the right of ADB and the borrower to audit (or inspect) subcontractors. This permits ADB and the borrower to ensure that subcontractors comply with requirements, especially integrity requirements, and to investigate any breaches.

D. Subcontractor Qualification at Bidding Stage

4.8 The risk of subcontractor underperformance can be fairly mitigated by the evaluation of subcontractor experience at the bidding stage. Subcontractors performing key activities are required to be proposed by the bidder in the bid submission. This provides an opportunity for the borrower to assess the experience of subcontractors that are most critical to the success of the contract.

4.9 In addition, to mitigate integrity risks, specialist subcontractors should be checked at the bidding stage (and other subcontractors checked at the contract award and contract implementation stages) to determine if they are under temporary suspension or debarment. If so, they should be rejected or replaced in line with the applicable provisions of the bidding documents and contracts.

E. Evaluation of the Contractor’s Ability to Manage Subcontractors

4.10 The ability of the contractor to manage the progress and performance of subcontractors, especially specialist subcontractors, can be essential to the success of the contract.

4.11 The prequalification and bidding documents include evaluation and qualification criteria to determine whether the bidder has sufficient experience to perform the contract. These criteria indirectly provide an indication of the bidder’s past success in managing subcontractors (where subcontractors were employed).

F. Contract Management Activities

4.12 During contract implementation, there may be a need to add or replace a subcontractor. The process of replacing or adding a subcontractor should be guided by the applicable contract provisions. The contract should describe when a change in subcontractor arrangements requires the borrower’s approval.

4.13 Contract management activities can mitigate risks of subcontractors adversely impacting contract outcomes due to underperformance or disputes between subcontractors and the contractor, or due to the contractor’s inability to
manage subcontractors. For example, where a subcontractor is particularly critical to the success of the contract, the borrower, in consultation with the contractor, may consider including the subcontractor in contract management meetings as appropriate. This arrangement may be agreed on in the contract management plan or any other arrangement agreed on between the contracting parties (refer to the Guidance Note on Contract Management).

4.14 The party supervising the contract on behalf of the borrower (the “engineer” or project manager) should always require that the qualified subcontractors described in the contract are undertaking the works or services for which they were identified.

G. Contract Reporting

4.15 Regular contract reporting by the contractor to the borrower is a contract management activity that can be used to mitigate the risk of a subcontractor’s adverse impact on contract outcomes and on risks to supply chain integrity.

4.16 The contractor may be required to report contract performance at the subcontract level to highlight any potential issues related to underperformance. In addition, the contractor can be made to require subcontractors to provide periodic declarations of compliance with supply chain integrity requirements and/or to report the results of the subcontractors’ (and the contractor’s) self-auditing of compliance with supply chain integrity requirements.

4.17 If considered an appropriate risk mitigation for the contract, these obligations can be included in the contract terms and in the contract management plan.
A. **Nominated Subcontractors**

5.1 A separate bidding procedure is normally carried out by the borrower to select any nominated subcontractors, who are then nominated by the borrower as subcontractors to bidders in the main bidding process. The estimated cost of specialized work to be carried out, or of special goods to be supplied, by a nominated subcontractor should be indicated in the relevant part of the bill of quantities as a provisional sum, with an appropriate brief description. The cost associated with the use of the nominated subcontractor(s) should be excluded from the bid evaluation process.

5.2 The qualifications and experience of nominated subcontractors are not considered in assessing the qualifications and experience of bidders. Failure of the bidder to include nominated subcontractors in their bid submissions, however, should lead to disqualification of the bid.

B. **Participation of Subcontractors in Multiple Bids**

5.3 Provided there is no conflict of interest, a bidder may participate as a subcontractor in another bid or a firm may participate as a subcontractor in more than one bid.

C. **Prequalification of Subcontractors**

5.4 Prequalification of subcontractors should generally be avoided. Subcontractors should instead be qualified at the bidding stage. However, if it has been decided to prequalify subcontractors, the following requirements apply:

(i) With its prequalification application, the applicant must submit a formal letter of intent to enter an agreement with each subcontractor jointly signed by the bidder and the subcontractor.

(ii) At the time of bidding, the bidder must propose the same subcontractors qualified at the prequalification stage. Any changes in qualification status of the applicant including its subcontractor(s) shall be agreed on in writing with the borrower in accordance with provisions of the prequalification documents.

5.5 For further information, refer to the *Guidance Note on Prequalification.*
D. Qualification of Subcontractors for Key Activities

5.6 At the time of bidding, the borrower will define, within the context of the contract, “key activities” in section 3 of the bidding documents. Key activities are tasks in the contract that require specialized skills, processes, or equipment. Key activity criteria should confirm the bidder’s experience in performing highly specialized activities. For example, in case of civil works, these may include tunneling, dredging, and bridge construction, and the achievement of specified production rates. In case of plant, these may include design, installation, testing, and commissioning. There shall not be any inconsistency or repetition of requirements between sections 2.4.1 (experience in similar contracts) and 2.4.2 (experience in key activities) of the bidding documents.

5.7 The borrower specifies the key activities and the bidder is given the option of stating in its bid whether it will perform the key activities itself or will use specialist subcontractors to perform them. Where no specialist subcontractor is proposed by a bidder to perform the key activities, it is the bidder itself that will be evaluated on the experience requirements. The activities and their requirements should be clearly be stated in the bidding documents.

5.8 The applicant or bidder is required to specify the specialist subcontractors it intends to use for key activities. The bidder is required to provide evidence of subcontracting agreements for subcontracted key activities in its bid submission.

5.9 The borrower should limit key activities to those requiring specialist experience and those that are considered critical to the success of the contract, e.g., those activities that comprise a significant proportion of the contract. There is little value in the borrower specifying every component of the contract as a key activity. For smaller, less complex projects, the borrower may decide not to specify any key activities.

5.10 The experience requirements for key activities should be met by the party performing the activity, either the bidder or the specialist subcontractor. This is evaluated as “pass/fail,” i.e., the party performing the key activity has either met the requirements (pass), or has not (fail). In case of a joint venture bidder, at least one of the partners must meet the requirement in the key activity. For further details, refer to ADB’s Standard Procurement Document for Prequalification of Bidders and the standard bidding documents for procurement of works and procurement of plant. Figure 3 summarizes the processes described in this section and in section E.

E. Qualification of Subcontractors for Major Items of Plant and Services in Procurement of Plant

5.11 In the case of plant procurement, the borrower also lists major items of plant (for manufacturers) and services (for subcontractors) that the bidder does not undertake by itself. In case of subcontractors proposed by bidders for the
Figure 3: Process Flow for Qualifying Subcontractors for Works and Plant

Start

Works or Plant?

Yes

Bidder specifies “key activities” in bidding documents (section 2.4.2, Table A)

Treatment of subcontractors for major items

No

Bidder specifies “specialist subcontractor” to perform key activities?

Yes

Bidder substantiates experience in bid submission

No

Bidder specifies “specialist subcontractor” and substantiates its experience

Bidder evaluates bids submission

Pass

Meet key activity requirements?

Yes

Bidder proposes to subcontract to satisfy the requirement

End

No

Reject bid

Proceed with rest of evaluation

Fail

End

Borrower specifies “key activities” in bidding documents (section 2.4.2, Table A)

Borrower specifies “key activities” in bidding documents (section 2.4.2, Table B)

Bidder, or bidder-specified “specialist subcontractor,” substantiates its experience

Pass

Bidder meets the requirement?

Yes

Subcontractor meets the requirement?

Proceed with rest of evaluation

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Bidder proposes to subcontract to satisfy the requirement

End

Bidder proposes to satisfy the requirement itself

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?

Yes

End

No

Seek clarifications and replace the subcontractor according to applicable bidding procedures, and decide whether to reject bid

End

Fail

Reject bid

Proceed with rest of evaluation

Borrower specifies requirements of major items in bidding documents (section 2.5)

Will bidder subcontract or satisfy the requirement by itself?

Pass

Bidder meets the requirement?
major items of services listed, failure to comply with the qualification requirements will result in rejection of the subcontractor but not the bidder. The same is true for other manufacturers proposed by bidders for the major items of plant listed. Additionally, the bidder shall provide the manufacturer’s authorization, showing that the bidder has been duly authorized by the manufacturer or producer of the related plant and equipment or component to supply and install that item in the borrower’s country. Failure to submit the manufacturer’s authorization at the first instance is considered a minor, nonmaterial omission and shall be subject to clarification. However, failure of the bidder to submit the omitted authorization shall lead to rejection of the manufacturer of the item under evaluation.

F. Due Diligence on Subcontractors at Contract Implementation

5.12 **To ensure that the contractor does not subcontract the bulk of its obligations.** The borrower may specify in the contract the maximum allowable percentage of the contract that may be subcontracted, to reduce contract risk by ensuring that bidders have certain core competencies, and that they are invested in the success of the contract. Depending on the nature and scope of the contract and market conditions, the borrower may decide on a reasonable percentage; however, the entire contract should not be subcontracted. The exception to this limit is for engineering, procurement, and construction contracts, as the contractor’s primary role in this type of contract is to take on overall contractual liability for the coordination of multiple subcontractors.

5.13 **To ensure that the specialist subcontractors to perform key activities are the same subcontractors that were qualified at the bidding stage.** If specialist subcontractors have changed at contract implementation, the contract terms may permit the borrower to reject the new subcontractors and require the reinstatement of the subcontractors originally qualified, or to require the qualification of the new subcontractors prior to approval by the borrower.

5.14 **To perform due diligence on other subcontractors.** Borrowers should ensure that other subcontractors are not subject to temporary suspension or debarment, and that those that may be added during contract implementation do not pose a high capability risk to the contract.
VI. Resources for Further Review

6.1 The following ADB resources may be consulted for further information related to subcontracting in the procurement cycle:

(i) Guide on Bid Evaluation:

(ii) Standard Procurement Document for Prequalification of Bidders:

(iii) User’s Guide to Prequalification of Bidders:

(iv) User’s Guide to Procurement of Goods:

(v) User’s Guide to Procurement of Plant:

(vi) User’s Guide to Procurement of Works:
Subcontracting
*Guidance Note on Procurement*

This guidance note explains ADB’s requirements on the treatment of subcontractors by borrowers for the procurement and implementation of goods, works, and plant. Subcontractors can contribute specialized skills and equipment not available to main contractors and can supplement their resources. The contractor is responsible for the performance of its subcontractors, but their underperformance can adversely impact contract performance and contract outcomes—specifically on schedule, quality, and cost. It can also pose reputational and integrity-related risks to the supply chain. The note highlights actions that borrowers can take to ensure that subcontractors are suitably qualified and follow the same contractual terms as the contractor on issues of performance and integrity.

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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.