

# PROCUREMENT PLAN

## Basic Data

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<b>Project Name:</b> Secondary Education Sector Development Program	
<b>Country:</b> Vietnam	<b>Executing Agency:</b> Ministry of Education and Training
<b>Loan Amount:</b> \$60.0 million (program loan of \$20 million and project loan of \$40 million)	<b>Loan Number:</b> 2583-VIE (SF)
<b>Date of First Procurement Plan:</b> 03/6/2010	<b>Date of this Procurement Plan:</b> 8 January 2014

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### A. Process Thresholds, Review, and 18-Month Procurement Plan

#### 1. Project Procurement Thresholds

1. Except as the Asian Development Bank (ADB) may otherwise agree, the following process thresholds shall apply to procurement of goods and works.

Procurement of Goods and Works	
Method	Threshold
International Competitive Bidding (ICB) for Goods	Above \$500,000
National Competitive Bidding (NCB) for Works	\$100,000 up to \$5,000,000
NCB for Goods	\$100,000 up to \$500,000
Shopping for Works	Below \$100,000
Shopping for Goods	Below \$100,000

#### 2. ADB Prior or Post Review

2. Except as ADB may otherwise agree, the following prior or post review requirements apply to the various procurement and consultant recruitment methods used for the Secondary Education Sector Development Program.

Procurement Method	Prior or Post	Comments
<b>Procurement of Goods and Works</b>		
ICB Goods	Prior	
NCB Works	Prior/Post	Prior review applied for first contract. After successful first contract award, post review acceptable
NCB Goods	Prior/Post	Prior review applied for first contract. After successful first contract award, post review acceptable
Shopping for Works	Prior/Post	Prior review applied for first contract. After successful first contract award, post review acceptable.
Shopping for Goods	Prior/Post	As above
<b>Recruitment of Consulting Firms</b>		
Quality- and Cost-Based Selection (QCBS)	Prior	
Fixed Budget Selection (FBS)	Prior	
Other selection methods: Consultants	Prior	
Qualifications (CQS), Least-Cost Selection		

(LCS), Quality-Based Selection (QBS) and Single Source (SSS)

### **Recruitment of Individual Consultants**

Individual Consultants	Prior
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### **3. Goods and Works Contracts Estimated to Cost More Than \$1 Million**

3. There are no goods and works contracts that cost more than \$1 million during this period.

### **4. Consulting Services Contracts Estimated to Cost More Than \$100,000**

4. The following table lists consulting services contracts for which procurement activity is either ongoing or expected to commence within the next 18 months.

General Description	Contract Value (\$)	Recruitment Method <sup>1</sup>	Advertisement Date	International or National Assignment	Comments
Instructional Material for Integrated LSSs	1,140,000	QCBS	Q1 2013	National	Submission 3 is evaluating

### **5. Goods and Works Contracts Estimated to Cost Less than \$1 Million and Consulting Services Contracts Less than \$100,000**

5. The following table groups smaller-value goods, works and consulting services contracts for which procurement activity is either ongoing or expected to commence within the next 18 months.

General Description	Contract Value \$ (Cumulative)	Number of Contracts	Procurement / Recruitment Method	Comments
<b>Civil Works</b>				
Renovation of integrated LSSs	60	3	Shopping	Output 3
<b>Consulting Services</b>				
Assessment of impact of SESDP to secondary education	90,000	1	CQS	Output 4
National Consultant in programming, testing entering CCT data and upgrading (4 consultants x 3.5 person-months)	21,000	4	ICS	Output 3
Financial Audit for FY 2014-2015	60,000	1	LCS	Output 4
<b>Goods</b>				
Printing material for PISA 2015	200,000	1	NCB	Output 2
Furniture for CECs	495,000	11	Shopping	Output 1
Purchase printed Reference book and instructional Material for Secondary Schools	240,000	1	NCB	Output 3
Editing and Printing instructional material for training programs of SESDP	100,000	1	Shopping	Output 3

## B. Indicative List of Packages Required under the Project

6. The following table provides an indicative list of all procurement (goods, works, and consulting services) over the life of the project. Contracts financed by the Borrower and others should also be indicated, with an appropriate notation in the comments section.

No.	General Description	Contract Value (USD)	Procurement Method	Status
<b>I</b>	<b>Procurement of Goods: 43 packages of which: 2 ICB, 5 NCB, 37 Shopping</b>	<b>9,438,495</b>		
1	Equipment for Target Secondary Schools (32 LSSs + 41 USSs)	3,500,000	ICB	Completed
2	Equipment for Specialized Schools	3,500,000	ICB	BER was submitted to ADB
3	Equipment for 17 CECs	765,000	Shopping	Completed
4	Furniture for 17 CECs (17 packages: 45,000 USD/package)	765,000	Shopping	6 CECs was completed, 11 CECs are continuing
5	Purchase printed reference book and instructional Material for secondary Schools	240,000	NCB	Bid Invitation is developing
6	Editing and Printing instructional material for training programs of SESDP	100,000	Shopping	Bid Invitation is developing
7	Printing material for PISA 2015	200,000	NCB	Bid Invitation is developing
8	Equipment for 6 teaching practice centers	600,000	NCB	Completed
9	Printing Braille textbooks	97,516	NCB	Completed
10	Printing sample of Braille textbooks	10,979	Shopping	Completed
11	Printing materials and questionnaires for NAM	25,000	Shopping	Completed
12	Printing materials for PISA	30,000	Shopping	Completed

No.	General Description	Contract Value (USD)	Procurement Method	Status
<b>II</b>	<b>Civil Works: 73 packages of which: 17 NCB and 56 Shopping</b>	<b>8,660,000</b>		
1	Construction of 17 CECs	8,160,000	NCB	17 contracts were awarded
2	Renovation of integrated LSSs (3 packages; 20,000 USD/package)	60,000	Shopping	Contract is being developed
3	Renovation of integrated LSSs (53 packages; 20,000 USD/package)	1,060,000	Shopping	Completed
<b>III</b>	<b>Consulting Services: 16 packages of which: 2 QCBS, 5 FBS, 4 LCS, 2 ICS</b>	<b>4,750,000</b>		
1	Consulting services (firm)	2,000,000	QCBS	Contract was awarded
2	Consulting of preparation for Construction of CEC	395,000	FBS	Contract was awarded
3	Instructional Material for Integrated LSSs	1,140,000	QCBS	Submission 2 was revised
4	Overseas training - master planning, accreditation, national assessment boards, school management for specialized school	409,000	FBS	Completed
5	Overseas training – curriculum and textbook writing	342,000	FBS	Completed
6	Overseas training- language training for teachers and managers	294,000	FBS	Completed
7	Financial Audit for FY 2010-2011	50,000	LCS	Completed
8	Financial Audit for FY 2012	40,000	LCS	Completed
9	Financial Audit for FY 2013	40,000	LCS	EOI is evaluating
10	Financial Audit for FY 2014-2015	60,000	LCS	EOI will be called in Q4, 2014
11	National Consultants in external assessment (2 consultants x 4 person-months)	6,000	ICS	Completed
12	National Consultant in programming, testing entering CCT data and upgrading (4 consultants x 3.5 person-months)	21,000	ICS	TOS is developing
13	Assessment of impact of SESDP to secondary education	90,000	CQS	ToR is being developed

## **C. National Competitive Bidding**

### **1. General**

7. The laws to be followed for national competitive bidding are set forth in (i) the Law on Procurement No. 61/2005/QH11 of 29 November 2005, (ii) the Construction Law no. 16/2003/QH11 of 26 November 2003, (iii) the Amendment Law No. 38/2009/QH12 of 19 June 2009 amending and supplementing key articles of the above-mentioned two laws, and (iv) the processes described in Decree No. 85/2009/ND-CP of 15 October 2009 on “Guiding Implementation of Procurement Law and Selection of Construction Contractors under the Construction Law”. Whenever any procedure in the national procurement laws is inconsistent with the ADB Procurement Guidelines (April 2010, and as amended from time to time), the ADB Guidelines shall prevail, amongst others on the following.

### **2. Registration**

- (i) Bidding shall not be restricted to pre-registered firms and such registration shall not be a condition for participation in the bidding process.
- (ii) Where registration is required prior to award of contract, bidders: (i) shall be allowed a reasonable time to complete the registration process; and (ii) shall not be denied registration for reasons unrelated to their capability and resources to successfully perform the contract, which shall be verified through post-qualification.
- (iii) Foreign bidders shall not be required to register as a condition for submitting bids.
- (iv) Bidder’s qualification shall be verified through pre- or post-qualification process.

### **3. Eligibility**

- (i) National sanction lists may only be applied with approval of ADB<sup>1</sup>.
- (ii) A firm declared ineligible by ADB cannot participate in bidding for an ADB financed contract during the period of time determined by ADB.
- (iii) A firm which has been engaged by the borrower to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works, or services, resulting from or directly related to the firm's consulting services for such preparation or implementation.

### **4. Prequalification and Post qualification**

- (i) Post qualification shall be used unless prequalification is explicitly provided for in the loan agreement/procurement plan. Irrespective of whether post qualification or prequalification is used, eligible bidders (both national and foreign) shall be allowed to participate.

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<sup>1</sup> Section 52 of the Integrity Principles and Guidelines allows ADB to sanction parties who fail to meet ADB's high ethical standards based on the decisions of third parties, such a decision can only be made by the Integrity Oversight Committee on the basis of ADB's own independent examination of the evidence. As such, the process should follow the normal assessment and investigative processes prescribed by the Integrity Principles and Guidelines. <http://www.adb.org/Documents/Guidelines/Integrity-Guidelines-Procedures/integrity-guidelines-procedures-2006.pdf>

- (ii) In the event where pre-qualification is used, interested firms shall be given no less than 42 days to prepare their pre-qualification submission.
- (iii) When pre-qualification is required, the evaluation methodology shall be based on pass/ fail criteria relating to the firm's experience, technical and financial capacities.
- (iv) Qualification criteria shall be clearly specified in the bidding documents, and all criteria so specified, and only criteria so specified, shall be used to determine whether a bidder is qualified. The evaluation of the bidder's qualifications should be conducted separately from the technical and commercial evaluation of the bid.
- (v) In carrying out the post-qualification assessment, the Employer/ Purchaser shall exercise reasonable judgment in requesting, in writing, from a bidder missing factual or historical supporting information related to the bidder's qualifications and shall provide reasonable time period (a minimum of 7 days) to the bidder to provide response.

## **5. Preferences**

- (i) No preference of any kind shall be given to domestic bidders or for domestically manufactured goods.
- (ii) Regulations issued by a sectoral ministry, provincial regulations and local regulations which restrict national competitive bidding procedures to a class of contractors or a class of suppliers shall not be applicable.
- (iii) Foreign bidders shall be eligible to participate in bidding under the same conditions as local bidders, and local bidders shall be given no preference (either in bidding process or in bid evaluation) over foreign bidders, nor shall bidders located in the same province or city as the procuring entity be given any such preference over bidders located outside that city or province

## **6. Advertising**

- (i) Invitations to bid (or prequalify, where prequalification is used) shall be advertised in Government Public Procurement Bulletin. In addition, the procuring agency should publish the advertisement in at least one widely circulated national daily newspaper or freely accessible, nationally-known website allowing a minimum of twenty-eight (28) days for the preparation and submission of bids and allowing potential bidders to purchase bidding documents up to at least twenty-four (24) hours prior the deadline for the submission of bids. Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised on ADB's website via the posting of the Procurement Plan.
- (ii) Bidding documents shall be made available by mail, or in person, to all who are willing to pay the required fee, if any.
- (iii) The fee for the bidding documents should be reasonable and consist only of the cost of printing (or photocopying) the documents and their delivery to the bidder. (Currently set at 1 Mln VND, increase subject to approval of ADB)

## **7. Standard bidding documents**

- (i) The Borrower's standard bidding documents, acceptable to ADB, shall be used. The bidding documents shall provide clear instructions on how bids should be submitted, how prices should be offered, and the place and time for submission and opening of bids.
- (ii) Bidders shall be allowed to submit bids by hand or by mail/ courier.

## **8. Bid Opening**

- (i) All bids received after the deadline for submission indicated in the bidding documents will be rejected.
- (ii) All bids received before the bid submission deadline shall be opened except those with proper notice of withdrawal.
- (iii) A copy of the bid opening record shall be promptly provided to all bidders who submitted bids.

## **9. Bid Evaluation**

- (i) Merit points shall not be used in bid evaluation.
- (ii) Bidders shall not be eliminated from detailed evaluation on the basis of minor, non-substantial deviations.<sup>2</sup>
- (iii) Except with the prior approval of ADB, no negotiations shall take place with any bidder prior to the award, even when all bids exceed the cost estimates.
- (iv) A bidder shall not be required, as a condition for award of contract, to undertake obligations not specified in the bidding documents or otherwise to modify the bid as originally submitted.
- (v) Bids shall not be rejected on account of arithmetic corrections of any amount. However, if the Bidder that submitted the lowest evaluated bid does not accept the arithmetical corrections made by the evaluating committee during the evaluation stage, its bid shall be disqualified and its bid security shall be forfeited.

## **10. Rejection of All Bids and Rebidding**

- (i) No bid shall be rejected on the basis of a comparison with the owner's estimate or budget ceiling without the ADB's prior concurrence.
- (ii) Bids shall not be rejected and new bids solicited without the ADB's prior concurrence.

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<sup>2</sup> Minor, non-substantial deviation is one that, if accepted, would not affect in any substantial way the scope, quality, or performance specified in the contract; or limit in any substantial way, the Contracting entity rights or the Bidder's obligations under the proposed contract or if rectified, would not unfairly affect the competitive position of other bidders presenting substantially responsive bids.

## **11. Participation by Government-owned enterprises**

8. Government-owned enterprises shall be eligible to participate as bidders only if they can establish that they are legally and financially autonomous, operate under Enterprise law and are not a dependent agency the contracting entity. Furthermore, they will be subject to the same bid and performance security requirements as other bidders.

## **12. Participation by Foreign contractors and suppliers. Joint Ventures and Associations**

- (i) Foreign suppliers and contractors from eligible countries shall, if they are interested, be allowed to participate without being required to associate or form joint ventures with local suppliers or contractors, or to subcontract part of their contract to a local bidder.
- (ii) A bidder declared the lowest evaluated responsive bidder shall not be required to form a joint venture or to sub-contract part of the supply of goods as a condition of award of the contract.
- (iii) License for foreign contractors operation in Vietnam would be provided in a timely manner and will not be arbitrarily withheld.

## **13. Publication of the Award of Contract. Debriefing.**

- (i) For contracts subject to prior review, within 2 weeks of receiving ADB's "No-objection" to the recommendation of contract award, the borrower shall publish in the Government Public Procurement Bulletin, or well-known and freely-accessible website the results of the bid evaluation, identifying the bid and lot numbers, and providing information on: i) name of each bidder who submitted a bid; ii) bid prices as read out at bid opening; iii) name and evaluated prices of each bid that was evaluated; iv) name of bidders whose bids were rejected and the reasons for their rejection; and v) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.
- (ii) For contracts subject to post review, the procuring entity shall publish the bid evaluation results no later than the date of contract award.
- (iii) In the publication of the bid evaluation results, the borrower shall specify that any bidder who wishes to ascertain the grounds on which its bid was not selected, should request an explanation from the procuring entity. The procuring entity shall promptly provide an explanation of why such bid was not selected, either in writing and / or in a debriefing meeting, at the option of the borrower. The requesting bidder shall bear all the costs of attending such as debriefing. In this discussion, only the bidder's bid can be discussed and not the bids of competitors.

## **14. Handling of Complaints**

10. The national competitive bidding documents shall contain provisions acceptable to ADB describing the handling of complaints in accordance with Chapter X of Decree No. 85/2009/ND-CP, read with Articles 72 and 73 of the Law on Procurement No. 61/2005/QH11.

## **15. ADB Member Country Restrictions**

11. Bidders must be nationals of member countries of ADB, and offered goods, works, and services must be produced in and supplied from member countries of ADB.



## **16. Fraud and Corruption**

12. ADB will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed activities if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, an ADB-financed contract.

## **17. Right to Inspect/ Audit**

13. Each bidding document and contract financed from by ADB shall include a provision requiring bidders, suppliers, contractors to permit ADB or its representative to inspect their accounts and records relating to the bid submission and contract performance of the contract and to have them audited by auditors appointed by ADB.