



**AFRICAN DEVELOPMENT BANK
AFRICAN DEVELOPMENT FUND**



**RULES OF PROCEDURE
FOR THE USE OF CONSULTANTS**

**PROCUREMENT MONITORING
AND CONSULTING SERVICES UNIT**

EDITION JANUARY 2000

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<p>Adopted at the 358th and 286th meetings of the Boards of Directors of the African Development Bank and the African Development Fund in a joint session held on 15th July 1996 in Abidjan</p>
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1. **INTRODUCTION**

1.1 **Definition**

The following terms wherever used in the rules shall have the following meanings unless the context otherwise specifies or requires:

1. "ADB" shall mean the African Development Bank.
2. "ADF" shall mean the African Development Fund.
3. "NTF" shall mean the Nigeria Trust Fund.
4. "Bank" shall mean the ADB, ADF, NTF and any or all, as the case may be. In general these three institutions are referred to as "African Development Bank Group", and wherever decisions are concerned, the word "Bank" shall relate to the Management of the Institution.
5. "State Participant" shall mean any State Participant to the ADF Fund.
6. "Board of Directors" shall mean the Board of Directors of the African Development Bank.
7. "Eligible member country" or "member country" shall mean:
 - (a) in the case of the ADB, member countries of the ADB;
 - (b) in the case of the ADF, member countries of the ADB and State Participants to the ADF Fund.
8. "Regional member country" shall mean any African State, member of the African Development Bank.
9. "Non-regional member country" shall mean a non-African State member of the African Development Bank.
10. "Proposal" shall mean the offer made by a consultant in response to a request for consultancy services addressed to it by the Bank and/or its Borrowers on the basis of appropriate terms of reference.
11. "Time interval to submit proposal" shall mean the interval between the date of the mailing of invitations and the closing date.
12. "Majority" shall mean a share capital of more than 50%.
13. "Consultant" shall mean either an individual consultant or consulting firm.
14. "Regional consultant" shall mean either an individual consultant whose nationality is that of a regional member country or a consulting firm whose registered office and centre of activities are located in a regional member country and the majority of its share capital, as far as the ownership thereof is or can be publicly known, is owned by nationals of regional member countries.

15. "Non-regional consultant" shall mean either an individual consultant whose nationality is that of a non-regional member country or a consulting firm whose majority share capital, as far as the ownership thereof is or can be publicly known, is owned by nationals of non-regional member countries.
16. "National consultant" shall mean either an individual consultant whose nationality is that of a given regional member country or consulting firm whose registered office and centre of activities are in a given regional borrowing member country and the majority of whose share capital, as far as the ownership thereof is or can be publicly known, is owned by nationals of that country.

1.2 Purpose

1.2.1 These Rules of Procedure contain the policies, general principles and procedures to be followed regarding the selection and use of consultants by the Borrowers and grant receivers of the African Development Bank Group. They replace the previous Guidelines adopted by the Boards of Directors on 28 November, 1986, in Abidjan, some of the provisions of which have been modified and supplemented.

1.2.2 The Loan Agreement governs the legal relationships between the Borrower and the Bank, and the Rules apply to the selection and employment of consultants for the project, as provided in the Agreement. The rights and obligations of the Borrower and the consultants are governed by the specific Request for Proposals issued by the Borrower and by the contracts signed by the Borrower and the consultants, and not by these Rules or the Loan Agreement. No party other than the parties to the Loan Agreement shall derive any rights therefrom or have any claim to the loan proceeds.

1.3 Application

1.3.1 These Rules of Procedure shall apply to the services of consultants are required by the Borrowers in connection with Bank-financed projects with loans and grants.

1.3.2 The present Rules shall apply to all acquisition of consultancy services undertaken within the framework of financing through other sources of funds managed by the Bank, except where the Protocol of Agreement between the Bank and the source of funds concerned requires a specific procedure.

2. GENERAL

2.1 Objectives

2.1.1 Through their use by the Borrowers, the Rules of Procedure are intended to achieve economy and efficiency in the acquisition of consultancy services financed by the Bank.

2.1.2 Whether for activities related to a project in its different phases of implementation or for other operations such as technical assistance or institutional support, considerations of economy and efficiency require that the consultant provide the best possible service, namely, a high quality service which will have a positive impact on the final resulting project and contribute to the latter's success.

2.1.3 Consequently, the most important factors to be taken into consideration by the Borrowers in the selection of consultants are the technical qualifications of the consultants and the quality of the consultants' proposals.

2.2 Basic Principles

2.2.1 Apart from the considerations of efficiency and economy, the other principles underlying the provisions of the Rules of Procedure are the following:

- a) the need for the Bank to give all consultants of member countries equal opportunity of access to Bank-financed services;
- b) the need for the Bank to encourage the use of national and regional consultants and to develop the capacities of regional member countries to provide consultancy services;
- c) the responsibility of selecting the consultant is incumbent, first of all, on the Borrower; and
- d) the importance of transparency in the procurement process.

2.2.2 The consideration of economy and efficiency, the principle of equal opportunity of access to Bank-financed services for all consultants from member countries, shall form the basis of the type of selection set out in the Rules of Procedure for the acquisition of services.

Access of Consultants to Bank-financed Services

2.2.3 In its capacity as an international organization aimed at promoting trade and cooperation among its member States, the Bank will ensure that consultants who are nationals of these States have equal opportunity of access to Bank-financed services. Accordingly, and subject to the level of competence required, the Bank and its Borrowers attach particular importance to the use of national and regional consultants.

Responsibility of the Borrower for the selection and use of Consultants

2.2.4 The Borrower shall be responsible for the selection, use, control,

supervision and evaluation of consultancy services, under Bank loans and grants.

2.2.5 The Bank's role in the selection procedure is to ensure that the proposed consultancy services correspond to the terms of reference, that the qualifications of consultants are adequate, their tasks and responsibilities are well-defined, the contracts and conditions of employment are acceptable to the Bank and that consultants perform their contracts satisfactorily. To help achieve these objectives, the Bank requires that it be given the opportunity to give its agreement to or make comments at the different stages in the selection process.

2.2.6 Where the services are financed by the Borrower or by other sources not managed by the Bank, but which have a considerable impact on the Bank-financed project, the Bank shall ensure that the Terms of Reference are well defined and that the consultant's qualifications and conditions of employment are satisfactory.

2.3 Eligibility

2.3.1 In general, Borrowers may utilize the proceeds of financing, only for the acquisition of consultancy services supplied by member countries.

2.3.2 Consultancy services likely to be financed by the Bank are those provided by :

- a) individual consultants who are nationals of member countries;
- b) or consulting firms whose legal constitution is in accordance with the laws of a member country where they must have their registered offices and their main centre of activities.

In the case of consulting firms, it is required that:

- the majority of the beneficial interest in any such undertaking is owned by nationals of member countries, as far as the ownership thereof is or can be publicly known; and
- the majority of the members of their Board of Directors are nationals of member countries; and
- the majority of the directors, senior management officers and remaining staff are nationals of member countries.

2.3.3 A consulting firm shall be considered regional if their legal constitution is in accordance with the laws of a regional member country where they shall have their registered offices and their main centres of activity. In addition:

- the majority of the share capital of any of these firms shall be held by nationals of member countries, as far as the ownership thereof is or can be publicly known; and
- the majority of the members of the Board of Directors shall be nationals of member countries; and

- the majority of the directors, senior management officers and the rest of the staff shall comprise nationals of regional member countries.

2.4 Types of Assignments

2.4.1 Consultancy services used by Borrowers can be grouped broadly into four categories.

2.4.2 **Preinvestment Studies**: these comprise the investigations that generally precede decisions to proceed with specific projects. These studies may have as their objectives:

- a) the establishment of investment priorities (macro-economic and sectoral studies, preparation of master plans and prefeasibility studies);
- b) the determination of the basic features and the feasibility of a given project (economic feasibility and preliminary engineering); and
- c) the identification and definition of changes and improvements in governmental policies, operations and institutions necessary for the successful implementation of development programmes and investment projects.

2.4.3 **Detailed Design Studies**: these comprise the detailed technical, economic, or other works required to fully define a project and prepare it for implementation. These services usually include the preparation of detailed capital and operating cost estimates, detailed engineering, performance specifications and tender documents required for the invitation to bid for construction works and supply of goods. They also often include services in connection with the preparation of procurement documents, analysis of bids and recommendations thereon.

2.4.4 **Supervision and Control of Works Implementation**: comprising construction supervision and project management, including inspection and monitoring, certification of invoices submitted by contractors and suppliers, and technical services connected with the interpretation of contract documents. Implementation services can include: assistance in procurement, the coordination of inputs by various contractors and suppliers engaged in a single project, and the start-up of facilities and their operation for an initial period.

2.4.5 **Technical Assistance**: comprising a wide range of advisory and Borrower support services, such as development and sector planning and institution-building, including organization and management studies, staffing requirements and training studies, and assistance in implementing study recommendations. Technical assistance could apply to any of the preceding categories of assignments.

2.5 Types of Consulting Firms

2.5.1 The services outlined above (section 2.4) are provided by various types of organizations which, for the purposes of the present Rules of Procedure are

considered to be "consulting firms".

2.5.2 These organizations cover a wide range of private and public companies or organizations, the most common of which are:

- a) independent private consultants working in association with or for a company;
- b) state-owned or parastatal bodies providing consultancy services;
- c) public corporations or bodies providing consultancy services;
- d) private non-profit making organizations;
- e) training centres and institutions;
- f) universities or university associations;
- g) international organizations;
- h) non-governmental organizations;
- i) professional associations of retired persons;
- j) firms which combine consultancy and entrepreneurial functions or which are connected with or affiliated to, or owned by construction firms; and
- k) firms which combine consultancy and manufacturing functions or which are connected with or owned by manufacturers.

2.5.3 Borrowers may also use the special services of agents specialized in the procurement of goods and services or agencies of the United Nations (see Annex 1).

2.5.4 Some individual consultants or consulting firms are part of or involved in commercial activities or projects involving entrepreneurs or manufacturers. These consultants shall be acceptable to the Bank if their qualifications and past experience are relevant to the works in question. However, to ensure the necessary impartiality on a professional level, these firms, in particular, those in category j) and k) above (2.5.2) shall accept to limit their role to that of consultant, excluding themselves and their affiliates from any possibility of working in any other capacity under the same project.

2.5.5 Consulting firms partially or totally controlled or sponsored by the authorities including those of the Borrower, may be eligible for Bank-financed projects provided that:

- a) their qualifications and experience are suitable for the assignment in question; and
- b) their structure and legal status are such that they can enter into a legally-binding agreement with the Borrowers's project implementation agency.

2.6 Information Concerning Consultants

2.6.1 To enable the Bank to judge the acceptability of consultants proposed by Borrowers, it maintains information concerning the capabilities and experience of a large number of consultants. This information is also used when the Bank prepares lists of consultants that it proposes to Borrowers. Key information contained in the Bank's file on consulting firms is entered in a Data on Consulting Firms (DACON) system.

2.6.2 The Bank's general files on consultants, including DACON, are available to representatives of the Bank's Borrowers and executing agencies of member countries. However, the information available on any one consultant may be limited or, in some cases, non-existent, and it may be necessary for the Bank or the Borrower to request additional information from that particular consultant in order to form a judgement on its qualifications to carry out a specific assignment.

2.6.3 The fact that the Bank has been supplied with information about a consultant does not indicate that the Bank has verified the accuracy of the information provided, or that it has endorsed the consultant's qualifications in general, or that it will approve the consultant's appointment for any specific project. The Bank has no list of "approved" consultants.

2.7 Information for Consultants

2.7.1 There are several sources of information available to the consultant concerning services required by Borrowers; the main ones are:

- a) the Quarterly Operational Summaries of lending activities which contain useful information on the status of projects under preparation or recently approved by the Bank;
- b) the press release containing general project information is published by the Bank, when a loan is approved by the Board of Directors; and
- c) a General Procurement Notice on approved projects, describing the nature of the consultancy services sought and indicating the process to be followed for acquiring such service, as well as any restrictions attached thereto. The notice prepared by the Borrower, shall state the name, postal and telegraphic address, the telex and telephone numbers of the executing agency.

2.7.2 The Bank shall give the advertisement to the Press. The General Procurement Notice shall be forwarded to the Bank which will publish it in the "Development Business" journal of the United Nations, at least one month prior to any publication on or request for proposal for consultancy services.

2.8 Evaluation of Consultants' Performance

The Bank evaluates and records the performance of consultants on services financed by the Bank. The Bank's procedures are designed to ensure that performance evaluation is handled fairly and confidentially. The Bank shall take into consideration the performance of consultants on Bank-financed projects and studies.

2.9 The Use of National and Regional Consultants

2.9.1 The development of African technical and professional skills contributes to the economic progress of the region, therefore the Bank encourages the utilization of national and regional consultants.

2.9.2 In cases where the qualifications of a regional consultant or a joint venture of regional and non-regional consultants are determined to be equal to those of a non-regional consultant, preference in the selection will be given first to the regional consultant and second to the joint venture of regional and non-regional consultants.

2.9.3 The Bank Rules of Procedure require that except for cases mentioned in paragraph 3.4.14 below, on the short list prepared by the Borrowers, when possible, there be at least one regional consulting firm and at least one regional or national firm in joint venture or association with a non-regional firm (para. 3.4.2).

2.9.4 Associations or joint ventures of regional and non-regional consulting firms are encouraged by the Bank whenever the requirements of the project indicate that such arrangements will be beneficial in the conduct of the assignment and in the provision of the professional services required.

2.9.5 Associations between national or regional and non-regional firms shall be made freely and appear as such on the short list. Such arrangements may assume several forms:

- a) in some cases, the assignment may be suitably divided, with the national or regional consulting firm entering into contract with the Borrower for the appropriate parts of the assignment, but performing under the general direction of a non-regional consultant responsible for managing the activity as a whole;
- b) if expertise required is not available locally, a national or regional firm may engage individuals from non-regional countries to bring it up to a level of expertise capable of undertaking the assignment; and
- c) regional and non-regional firms may group together to perform an assignment. All firms will be named in the contract with the Borrower and the respective responsibilities and assignments of each firm will be stated. The Bank prefers that one of the firms should assume contractual responsibility (and liability) for the satisfactory execution of the assignment and be accountable for it. If the contract calls for all firms to be jointly and severally liable, then the Bank shall ensure that at least one firm in the joint venture is financially capable of meeting the contract requirements and potential liabilities on its own.

2.9.6 In order to develop national and regional skills, the Bank will endeavour to help Borrowers encourage non-regional firms to use when possible, national and regional technical and professional staff in the implementation of assignments.

2.9.7 The Borrower may acquire the services of individual consultants and consulting firms on the basis of a selection procedure which, given the relatively small amounts at stake, is aimed firstly at national and regional consultants, with the possibility for non-regional consultants to participate, using the criteria specified in this

document (see para.3.8.6). The cost of any such single contract may not exceed UA¹ 100,000 in the case of individual experts or UA 350,000 in the case of consulting firms. However, the acquisition of such services will be subject to prior approval by the Bank. The upper limits of such contracts shall be subject to periodic review by the Board of Directors.

2.10 Misprocurement

2.10.1 The Bank does not finance expenditures for consultancy services which have not been procured in accordance with the agreed procedures in the Loan Agreement, and it is the policy of the Bank to cancel that portion of the loan allocated to consultancy services that have been misprocured².

2.10.2 The Bank may in addition, exercise other remedies under the Loan Agreement, including cancellation of the whole loan. Cancellation of the whole loan shall be considered in cases where the study assignment comprises one major component or portion and several minor components or services which cannot exist without the major component or portion, and that the latter has been misprocured. On the other hand, if the Borrower has awarded a contract after obtaining the Bank's "no objection", the Bank will declare misprocurement only if the "no objection" was issued on the basis of incomplete, inaccurate or misleading information furnished by the Borrower.

2.11 Fraud and Corruption

2.11.1 It is the Bank's policy to require Borrowers (including beneficiaries of Bank loans and grants), as well as consultants under Bank-financed projects, programmes and studies, to observe the highest standards of ethics during the procurement and the execution of contracts under such projects, programmes and studies. In pursuance of this policy, the Bank requires that Borrowers shall include in requests for proposals documents, provisions against corrupt practices.

2.11.2 The Bank defines, for the purposes of these provisions, the terms set forth below as follows:

- (i) "corrupt practice" means the offering, giving receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution, and includes, inter alia, bribery and extortion or coercion which involve threats of injury to person, property or reputation; and
- (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practices among offerors or between offerors and borrower (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels.

2.11.2 The Bank will, following its own investigation and determination in accordance with its procedures:

- (a) reject a proposal for award if it determines that the offeror recommended for award has

¹ UA : Unit of Account of the African Development Bank

² See Annex 4, paragraph 4.3;

engaged in corrupt or fraudulent practices in competing for the contract in question;

- (b) cancel the portion of the loan or grant allocated to a contract for consultancy services if it, at any time, determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the Loan or Grant during the procurement or the execution of that contract; and
- (c) declare a consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it, at any time, determines the consultant has engaged in corrupt or fraudulent practices in competing for, or in executing, a Bank-financed contract. A consultant declared ineligible by the Bank in accordance with this sub-paragraph shall be ineligible to be awarded a Bank-financed contract during the period of time determined by the Bank.

2.11.3 The Bank reserves the right, where a consultant has been found by a national or international entity to have engaged in corrupt or fraudulent practice, to declare that such a consultant is ineligible, for a stated period of time, to be awarded a Bank-financed contract.

2.11.4 The Bank will have the right to require that, in contracts financed by the Bank, a provision be included requiring consultants to permit the Bank to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Bank.

2.11.6 In addition to the requirements set forth in Sub-clauses 2.11.1 to 2.11.5, with the specific agreement of the Bank, a Borrower may set forth in the request for proposals for large contracts financed by the Bank, an undertaking of the offeror to observe³, in competing for and executing a contract, the Borrowing country's laws against fraud and corruption, including bribery as listed in the request for proposal documents. The Bank will accept the introduction of such undertaking, at the request of the Borrower, provided it is satisfied that:

- (i) the requirement of such undertaking is part of an anti-corruption programme initiated in the Borrowing country; and
- (i) such requirement shall apply, within a timetable agreed between the Bank and the Borrowing country, to all similar public procurement.

2.12 **Confidentiality of Procedures**

After the opening of proposals, information relating to the examination, clarification and evaluation of proposals and recommendations concerning awards shall not be disclosed to offerers or other persons not officially concerned with this process until the award of contract is notified to the successful consultant.

³ For instance, such an undertaking could read as follows: "We hereby undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in the country of the [Client] [Employer], as such laws have been listed by the [Client] [Employer] in the request for proposals for this contract."

3. CONSULTING FIRMS USED BY BORROWERS

3.1 Selection Process

3.1.1 The need for consultancy services for a Bank-financed project is carefully considered by the Bank and the Borrower at the time of appraisal or if the circumstances so demand. Prior to its financing, the Bank and the Borrower shall reach an agreement on the principal objectives and general financing of the assignment to be carried out.

3.1.2 The normal method of selection is for the Borrower to invite proposals from 5 to 7 qualified and experienced consultants (paragraph 3.4.2) and, through a suitable selection procedure (section 3.6), chose the firm most qualified for the assignment. The principal stages in the selection process, in chronological order, are as follows:

- a) preparing the terms of reference and a contract format;
- b) preparing the cost estimate **and** the budget;
- c) advertising the acquisition of services by the Bank;
- d) preparing a short list of consultants;
- e) determining the selection procedures and criteria for selection;
- f) inviting the consultants to submit proposals;
- g) evaluating proposals and selecting a consultant in view of contract negotiations;
- h) negotiating the contract with the selected consultant; and
- i) signing the contract.

3.1.3 The Borrower shall be fully responsible for the selection of the consultant, the control and supervision of his services and the administration of the contract.

3.1.4 The Bank requires that it be given an opportunity to give its approval or make comments at the different stages of the selection process. However, the Bank is prepared to advise and assist the Borrower, at its request, at certain stages of the selection process, without directly participating in the preparation of the short list, the evaluation of proposals or the negotiation of the contract.

3.1.5 Under special circumstances where the Borrower or the executing agency concerned is unable to prepare the short list but submits a written request to the Bank, the latter could provide a long list of consultants, which cannot be considered exclusive. The information contained in the Bank's register enables it to determine whether the firms on the list provided are capable of fulfilling the assignment required, but which in no way means that the Bank guarantees the quality of the consultants' work or that it approves a particular one. The Borrower is free to verify the information on the

consultants on the list and modify it by adding or removing consulting firms. However, the final short list shall be approved by the Bank.

3.1.6 The involvement of the Bank in the selection of consultants beyond the assistance described above shall be the subject of special agreements.

3.2 Terms of Reference

3.2.1 For any consultancy service to be procured by Borrowers, the Bank requires that "Terms of Reference" be prepared to serve as the basis on which proposals shall be sought and service contracts negotiated. The terms of reference shall provide:

- a) a precise statement of the objectives sought;
- b) a clear description of the nature and scope of the services required and their context as well as the time interval in which they shall be provided;
- c) a statement of the duties and responsibilities of the consultant;
- d) a statement of the duties and responsibilities of the Borrower;
- e) information on any counterpart staff and its role;
- f) information on training and the transfer of technology, where necessary; and
- g) a summary of the data, a list of all studies and information on the assignment, facilities and services which the Borrower will provide to the consultant.

3.2.2 The Terms of Reference are used by the Borrowers for two purposes:

- a) to inform consultants of the intended scope of work when they are invited to submit proposals; and
- b) to define the consultants' services in the contract to be negotiated after selection.

3.2.3 When other financiers are involved, the terms of reference will serve as a basis for agreements between the Borrower, the Bank and other agencies concerned, on the objectives and scope of the consultancy services required.

3.2.4 The responsibility for preparing the terms of reference and budget for the required services lies with the Borrower. The Bank may assist the Borrower in preparing the terms of reference. In any case, the terms of reference shall be agreed to by the Bank and Borrower.

3.2.5 For preinvestment studies, the scope and duration of the consultant's work are to a large extent determined by the complexity of the project and knowledge of the basic data which shall be given particular attention.

3.2.6 The scope of the consultant's work is easier to define for detailed engineering designs following a successful feasibility study since on the one hand, the basic characteristics of the project and the related problem areas are known and on the other, the technical specifications and other important criteria may be determined on the basis of the study. Projects for which there are no or insufficient preinvestment studies shall be given particular attention regarding technical design parameters.

3.2.7 For very large projects or where the nature of the work requires major inputs from diverse disciplines, it may be deemed necessary to retain more than one consultant. In such cases, the terms of reference will include specific provisions for coordination of the various consultants' work.

3.2.8 For the preparation of final detailed designs and tender documents, the Bank requires the consultant to be made solely responsible for the accuracy and the suitability of its work. The terms of reference will provide, therefore, that while the Borrower shall supervise and review the consultant's work, no modifications shall be made in the final documents prepared by the consultant without his consent. As appropriate, the consultant may be appointed to act as adviser to the Borrower on all technical problems related to the project, with authority to make final decisions within such limits as may be prescribed by the Borrower.

3.2.9 For works supervision and inspection services, the definition of the consultant's tasks is in general fairly simple. There may be instances, however, where the Borrower may consider that an additional consultant is necessary because of the complexity of the project or the highly specialized nature of the inputs from diverse disciplines. In such cases, the terms of reference will provide for coordination of the works and specify the responsibilities of the different consultants.

3.2.10 At the stages of detailed engineering designs, detailed designs and supervision of construction, it is important that the responsibilities of the consultants be clearly understood by the Borrower and all other interested parties.

3.3. Cost Estimate

3.3.1 An estimate shall always be made of the cost of the consulting assignment. The cost estimate and budget shall be based on the terms of reference. The budget shall be as detailed and as accurate as possible and shall be broken down into foreign exchange and local currency costs which shall provide for sufficient funds for the loan or grant, and for the Borrower's budgetary contributions.

3.3.2 Although assignments often vary in importance, type, duration and complexity, the Borrower shall be able to prepare a detailed estimate by breaking down each assignment into activities to be undertaken in time, in a given order and subsequently determine the duration and cost of each. In general, the costs of these activities are reflected in cost categories expressed in foreign exchange and local costs, some of which could be reimbursable. The principal cost categories and characteristics on which the cost estimate is based are the following:

- the consultant's staff, profile, qualifications, time spent at headquarters and in the field, whose cost in person/months (or person/weeks, person/days) is based on the fixed rate of the cost of one person/month;
- national professional and support staff, whose cost is, in general, estimated on the basis of local salaries;
- direct costs such as travel, transport, per diem ...;
- the cost of physical inputs and materials such as equipment, vehicles, office supplies; and
- other expenditure (offices, communications, services, etc..).

3.3.3 In general, an amount shall always be allocated, over and above the basic costs, to cover physical and price contingencies.

3.3.4 Some items of the cost estimate in foreign exchange or in local currency may be reimbursable and, as such, shall be clearly identified. These could be costs covering travel, vehicles, equipment purchased especially for the assignment, some surveys and special investigations.

3.3.5 Any taxes and customs duties component of the cost estimate shall also be identified and appropriately handled by the Borrower, since the Bank only finances costs which are net of taxes and customs duties.

3.4 The Short List

3.4.1 The short list is made up of consultants who in the view of the Borrower and the Bank, possess the required capabilities and experience to supply the specific services and are otherwise eligible. Only consultants appearing on the short list may be invited to submit proposals.

3.4.2 The short list is prepared by the Borrower and submitted to the Bank for review and approval. It should be made up of 5 to 7 consulting firms which must be drawn from a wide geographic field of member countries with not more than two firms originating from the same country except for cases mentioned in paragraph 3.4.14 below; it must contain at least one firm from the regional member countries and if possible, one consortium from the regional and non-regional member countries.

3.4.3 Prior to the communication of the request for proposal documents, these consulting firms will be requested to confirm their desire to participate in the competition. In order to maintain the minimum number of five on the short list, the Borrower will, with the Bank's consent, replace firms that have communicated to the Borrower in writing they will not participate, by other firms.

3.4.4 The Borrower and the Bank make use of several sources when drawing up the short list of consultants:

- a) the Borrower's own experience of consulting firms and individual consultants;
- b) the list of consultants who have expressed interest in providing the proposed services; and
- c) the Bank's register of consultants.

3.4.5 In the examination of the short list proposed by the Borrower, the Bank will refer first to its register of consultants. However, in the case where the information available on a given consultant may be limited, or non-existent, it shall be necessary to request additional information from the Borrower in order to allow the Bank to form a judgement on the consultant's capability to carry out the specific assignment. A short list which has not received the prior approval of the Bank, shall not be used for the selection of a Bank-financed consultant.

3.4.6 Once a short list has been drawn up, applications from other firms shall not be considered.

3.4.7 Notwithstanding the provisions of sub-clauses 3.4.1 to 3.4.2, where an eligible consultant has satisfactorily carried out feasibility studies for a project, and is technically qualified to undertake detailed engineering design, preparation of tender documents or supervision of implementation, the Bank will not object, if the same consultant is appointed to carry out such subsequent functions, especially where it is probable that this would be substantially advantageous to the Borrower. Such advantage may be inferred from the consistency in basic technological approach, the

commitment to design and the project cost estimates on which investment decision is to be based. It is understood that the price of such services will be subject to review, based on current rates of services in the different sectors.

3.4.8 There may be cases, however, where a second review of preliminary designs by a different consultant may have some merits. To this end, the option to change consultants between the feasibility study and the next stage is always left open, and the Bank will discuss it with the Borrower during appraisal and an agreement shall be reached before presentation to the Boards.

3.4.9 If, for good reasons, a Borrower wishes to change a consultant during the course of its work, it shall consult the Bank before starting the procedure for the selection of the new consultant.

3.4.10 Where a change of consultant between feasibility studies and detailed engineering design is unavoidable, the consultant taking over shall be required to accept full responsibility for the complete project design.

3.4.11 The Bank usually insists that the consultant who has carried out detailed engineering design and prepared the tender documents should appear on the short list for supervision and control of the works; however, the Bank has no objection, upon a justified request by the Borrower, to the award of such supervision and control to the same consultant who prepared the detailed design in order to ensure that contract documents are interpreted properly during the project implementation stage and any modifications in design, if found necessary in the course of construction, are technically sound and in accordance with the original conception of the project. The price of such services will be subject to review, based on current rates of services in the different sectors.

Prequalification

3.4.12 In the case of major and complex services, for amounts equal to or above the equivalent of UA 1,000,000, the short list shall be prepared in two separate stages of which the first is prequalification. This consists of invitations to consultants renowned for their experience and skills or by means of an announcement to consultants to express their interest in the assignment.

3.4.13 The announcement shall contain a brief outline of the assignment and only request consultants to submit a statement of capability and experience relevant to the upcoming assignment. The Borrower evaluates the responses and information obtained and prepares the short list by including the best qualified firms. The selection process, on the basis of this short list, remains unchanged.

3.4.14 The following rules shall be observed during prequalification:

- a) the number of best qualified firms to be selected on the basis of the classification made following evaluation of the responses shall be a maximum of 7 for consulting firms (the seven best qualified firms);
- b) the principle of wide geographical spread and the minimum number of firms from regional member countries on the short list shall not be taken into consideration;
- c) criteria used in prequalification shall not be applied during the follow-up evaluation of the technical proposals; and
- d) the prequalification report and the attendant short list shall be sent by the Borrower to the Bank for approval.

3.5 Announcement

3.5.1 For contract services of amounts below the equivalent of UA 350,000, the Borrower may limit advertisement to at least one national newspaper. The Borrower will send the advertisement to local representatives of eligible member countries (embassies, consulates, trade offices in the Borrower's country) and to those eligible potential bidders who have expressed interest in response to the General Procurement Notice.

3.5.2 In the case of contracts equal to or above UA 350,000, the Borrower shall publish an advertisement in "Development Business" issued by the United Nations and in the national press to attract the interest of consultants. Copies of the advertisement shall also be sent to official representatives of member countries in the country. The Bank shall bear the cost of publishing the advertisement in "Development Business", if the Borrower so requests, while the latter shall be responsible for its publication in the national and regional press.

3.5.3 For prequalification, from the date of publication of the advertisement to the closing date for submission of expressions of interest, Borrowers shall allow a minimum of 45 calendar days.

3.5.4 Any consultant who wishes to provide the requested services, may express his desire to be short-listed to the Executing Agency concerned, in accordance with the present Rules of Procedures. However, an expression of interest to participate in the provision of services shall in no way oblige the Borrower to include the applicant in the short list.

3.6 Selection Procedure

3.6.1 The selection procedure and evaluation criteria to be adopted shall be determined by the Borrower during the appraisal mission and prior to the invitation of consulting firms to submit proposals. They will be considered by the Bank which will verify their suitability and make possible comments concerning them; they will then be

included in the requests for proposals. The Bank reserves the right to give its approval or make comments on the effective application of the selection procedure defined with the Borrower.

3.6.2 The Bank stipulates three principal types of selection procedures which shall be applied according to the type of service required; they are:

- a) selection procedure based solely on technical quality, that is to say, the evaluation of the firm's competence, the staff seconded to the assignment and the technical value of the proposal;
- b) selection procedure based on technical quality with price consideration; and
- c) finally, selection procedure which establishes the comparability of technical proposals and the services and makes a selection on the basis of the lowest price.

3.6.3 The adoption of any of the three principal types of selection procedures will depend on the complexity of the assignment; the assignments impact on the end-product and the probability that the proposals submitted by the invited firms will lead to comparable outputs.

The Complexity of Assignments

3.6.4 Consulting assignments vary greatly in complexity and are often difficult to compare. Assignments such as multi-sectoral studies, project management, studies on major industrial complexes or major port structures with ancillary facilities, are far more complex than supervision work on a simple building construction or the preparation of preliminary or detailed designs for secondary roads, the feasibility of which has already been established, or topographic or seismic surveys. While the former which often call for creativity, originality, and adaptability to local conditions may be ranked highest in terms of complexity, the latter are ranked lower and may often be performed on the basis of terms of reference for which the objectives, work involved and technical parameters to be observed may be so detailed and precise that the volume and quality of services to be provided by different consultants may be compared on the basis of their offers of services. Between these two extremes of complex and simple assignments, there lies a whole range of assignments, perhaps the majority, which vary in complexity.

Impact of Assignments

3.6.5 By their nature and importance, some assignments may have more of a potentially negative impact on the final product than others; for example, a small difference in the quality of analysis concerning alternative solutions regarding installations may lead to the selection of a poor site location for a large port and result in useless additional investment. Similarly, should the design of a large dam not correspond to the most appropriate technical solution or prove inadequate, there may be risks which could have a negative impact on investment or the operation of the

structure.

Comparability of Services

3.6.6 To enable the comparison of services to be provided by different consultants on the basis of their technical proposals, these proposals should be substantially similar in quality and should lead to comparable consultants output. Generally, this situation is only encountered for simple technical assignments whose terms of reference are clear and detailed regarding the description of tasks to be performed and for which the specifications are so precise that consultants are unlikely to deviate from them.

3.6.7 In conclusion, the extent to which price may be used as a selection factor depends, therefore, on the technical complexity of the assignment, its impact on the final product and the comparability of consultants' proposals. As the complexity of the assignments and the impact of the final product increase, the proposals become less comparable and price as a factor should have less effect on the selection. Price should not be used as a selection factor in the case of assignments which are difficult to specify or which are ranked high in terms of complexity or for which the final product is such that a small decrease in quality could conceivably have an unacceptable impact on the project associated with the assignment.

3.6.8 The following three selection procedures are recommended by the Bank on the basis of the above consideration:

- a) selection procedure based solely on the technical quality of proposals. This is applicable to assignments of a complex technical nature and those with risks likely to have a negative impact on the final project (para. 3.6.4 and 3.6.5);
- b) selection procedure based on the technical quality with price consideration. This is applicable to assignments of variable complexity; and
- c) selection procedure based on establishing the comparability of technical proposals and selection of the lowest financial offer. This is applicable to assignments of a technical nature (para. 3.6.4 and 3.6.6).

Presentation of Proposals

3.6.9 All the selection procedures shall always begin with the technical evaluation to be conducted separately from and independently of any financial consideration. The technical and financial proposals shall be submitted in separate sealed envelopes.

3.6.10 The technical evaluation shall be carried out on the basis of the principal criteria (paragraph 3.8.6) to which merit points are accorded so that each proposal is scored out of a hundred. If a minimum qualifying technical score of 70 is accepted, the total number of points obtained by the consultants retained shall lie between 70 and 100 and

the firms shall be ranked by order of merit on the basis of the highest score.

Evaluation based on Technical Quality

3.6.11 In the selection procedure based solely on technical quality, the firm which has submitted the best technically acceptable proposal shall be the first to be invited for negotiation. The envelop containing the financial proposal shall be opened in the firm's presence and its contents examined. If no agreement is reached, then the consultant whose technical proposal is ranked the second lowest shall be invited for negotiations. The exercise may continue until an agreement is reached with one of the firms whose technical proposals are considered satisfactory and retained. The financial envelopes containing the proposals of firms not invited for negotiations will be returned unopened to the offerers.

Combined Technical Quality and Price Consideration

3.6.12 The selection procedure based on the technical quality with price consideration starts in the same way as the technical evaluation. The technical proposals considered satisfactory are classified by order of merit and the corresponding financial proposals are opened. After the necessary correction of arithmetic errors, a score of 100% is given to the lowest financial proposal and the score given to each of the other financial proposals is proportionately reduced. The technical and financial proposals are weighted as specified in the Request for Proposal and the combined value of the two proposals will be calculated for each firm. Negotiations shall be initiated with the firm with the highest combined score and shall be conducted as in para. 3.6.11 above, until an agreement is reached with one of the firms whose technical proposals are considered satisfactory and retained.

Evaluation based on Comparability of Technical Proposals and Least Cost Consideration

3.6.13 The selection procedure based on the comparability of technical proposals and services involves a technical evaluation as in the previous case. Firms whose technical proposals are retained as the most acceptable "the best ranked consultants", shall be those whose respective scores are not more than 10% below the highest technical score, and whose scores are above the minimum standard of technical qualification acceptable (para. 3.6.10).

3.6.14 At the stage of examination of financial proposals, only the envelopes containing the financial proposals of the "best ranked consultants" shall be opened. The necessary arithmetic corrections will then be made for purposes of comparison and the consultants whose financial offer is considered the lowest shall be invited for negotiations. If an agreement is not reached, the consultant whose financial offer is ranked second lowest, shall in turn, be invited to negotiate and so on until an agreement is reached with one of the best ranked consultants.

3.6.15 Discussions between the Bank and the Borrower and a fair appreciation of the characteristics of the assignment when it is being initially assessed, will help the

Borrower to determine the appropriate selection procedure and the evaluation criteria.

3.7 Requests for Proposals

3.7.1 When an agreement has been reached between the Bank and the Borrower on the terms of reference, the budget and the short list of consultants, the Borrower shall proceed with the mailing of the Requests for Proposals (RFP) containing the invitations to the listed consultants.

3.7.2 The Request for Proposals shall contain: the letter of invitation, Instructions to Offerers, the Terms of Reference and the Contract Format. Except for the terms of reference, which are prepared by the Borrower with the Bank's approval, the Bank has standard Request for Proposals documents. The Borrower shall utilize these standard requests for proposals with the minimum of modifications acceptable to the Bank.

3.7.3 In the "Instructions to Offerers", the Borrower shall inform the consultants of the general requirements for submitting proposals. It will also indicate the items on which the main emphasis will be placed in the evaluation of proposals such as the selection procedure, the evaluation criteria for proposals, the weight between technical and price proposals, if necessary, standard formats of financial proposals, etc. These instructions may also include the total number of person/months of expert time estimated.

3.7.4 Whatever the selection procedure adopted, the Bank demands that Borrowers request from each consultant on the short list, financial and technical proposals to be submitted in separate and sealed envelopes. The financial proposal shall be opened only after the corresponding technical proposal has passed the qualitative evaluation.

3.7.5 Where specific methods and/or specialized approaches are expected to be used by consultants in providing their services, Borrowers may require those methods and approaches to be priced and submitted with the proposal.

3.7.6 The deadline for submission of proposals shall be stipulated in the request for proposals and is usually between 30 and 60 days with a minimum of 45 days when non-regional consultants participate.

3.7.7 Similarly, the period of validity of the proposals shall be stipulated in the request for proposals and is usually between 90 and 120 days.

3.8 Examination and Evaluation of Proposals

3.8.1 The primary objective of the evaluation of proposals received from several firms is the selection of the consulting firm which, through the quality of its proposal, is deemed to be best qualified for the assignment. A secondary objective is to determine what changes, if any, should be made in the consultant's work plan or the proposed personnel; these changes shall be discussed during negotiations.

3.8.2 The evaluation process shall begin as soon as possible after the receipt of all proposals, with the evaluation being carried out, usually by an evaluation committee using the evaluation criteria as specified in the request for proposals. It is necessary to safeguard the integrity of the two-stage procedure. Appropriate measures shall be taken to ensure that the evaluators have no access to price information until the technical evaluation has been completed, by requiring that price proposals remain sealed and, for example, be deposited with a competent authority.

Rejection of Proposals

3.8.3 On examination of proposals, a Borrower may reject all proposals if no proposal meets the intentions of the terms of reference, i.e. if all the proposals evaluated score below the minimum standard of technical qualifications acceptable. A Borrower may also reject a group of two or more proposals if, in his opinion or that of the Bank, there is sufficient evidence of collusion or lack of competition. Where all the proposals are rejected pursuant to the foregoing provisions, the Borrower shall:

- a) review the causes justifying their rejection and consider whether revision of the terms of reference is required;
- b) communicate to the Bank, for comments and approval, the facts and justifications and any recommendations for revision of the terms of reference;
- c) issue new requests for proposals to the same firms as on the original short-list with a new deadline for the receipt of proposals, where rejection is due to incomplete terms of reference or request for proposals, and subsequent to a revision of the latter and approval by the Bank;
- d) establish a new shortlist and upon approval by the Bank issue new requests for proposals to the consultants on the new short list, where, on the contrary, rejection is attributable to the incompetence of firms or lack of competition.

3.8.4 The response to a request for proposals is deemed insufficient if, within the stipulated period, no proposals are submitted by the consultants invited to do so; or where the responses to requests for proposals are deemed insufficient, the Borrower shall inform the Bank and make proposals regarding possible solutions. Where the absence or insufficiency of replies is due to deficiencies in the terms of reference or requests for proposals, upon revision of these documents and with the Bank's approval, the same procedure may be used as in para. 3.8.3 (c) above. Where insufficient interest is shown by consultants in the assignment, a new short list shall be drawn up with the Bank's agreement. Advertisements shall be published for the acquisition of services through the international press, and where the services required justify it, in some specialist journals, and requests for proposals reissued, should there be expression of interest (paragraph 3.5). Where the responses to invitations remain insufficient after a second call, the Bank shall be consulted regarding possible solutions.

The Bank could give its approval to examine the proposal(s) received or to contact directly other consulting firms to be identified.

Technical Evaluation

3.8.5 In evaluating technical proposals received from invited consultants, Borrowers shall consider mainly each consultant's current professional qualifications, its recent performance on similar assignments, its understanding of the particular assignment at hand, and the qualification of the staff assigned to the work.

3.8.6 As a guide to evaluating proposals, Borrowers are requested to use numerical ratings for each of the following technical evaluation criteria:

- a) experience of the consulting firm in the same field as that of the assignment and on similar projects;
- b) professional reputation of the firm and previous performance and experience with the Borrower;
- c) knowledge of the project environment in the country and region and their implications for the project;
- d) understanding of the terms of reference;
- e) overall quality of proposal, quality of work plan and methodology proposed;
- f) qualification of experts and experience in the field of the assignment;
- g) ability to deal with national personnel and agencies; and language proficiency.

3.8.7 The Borrower shall normally divide these criteria into subcriteria, each of which is given a weight that is specified in the request for proposals. For example, subcriteria under methodology and work schedule, might be level of detail, initiative and innovation. However, the number of subcriteria should be kept to the essential minimum so that evaluation is not too mechanical. The relative importance of these different criteria rated out of 100 will vary with the type of services to be performed. For a feasibility study, for example, and as a guide, the following relative merit points may be attributed to the different criteria, some of which have been grouped together:

- 5% to 15% for the firm's general experience, reputation and experience in previous similar assignments;
- 25% to 40% for understanding of the terms of reference and the overall quality of the proposal;
- 40% to 60% for the qualifications of key personnel; and

- 5% to 10% for knowledge of the country.

Greater weight will be given to the firm's experience and less to its key personnel where project design is concerned. On the other hand, in the case of training, priority will be given to the key personnel. Similarly, with regard to inspection and supervision services, greater weight will be given to key personnel than for a feasibility study.

3.8.8 The technical criteria for prequalification are limited to factors (a), (b) and (c) of paragraph 3.8.6 above, to which, as a guide, the following numerical ratings could be given for the same example of feasibility studies:

- a) overall experience in the field of the assignment and in comparable assignments : 40 to 60;
- b) professional reputation of the firm and its experience in previous assignments: 20 to 40;
- c) knowledge of project environment in the country and of the region and their implications for the projects : 15 to 25.

Factors (d), (e), (f) and (g) will be indicated in the requests for proposals and used in the evaluation of proposals to which other numerical ratings could also be attributed to attain the score of 100. In the example mentioned, a guide would be:

- d) understanding of terms of reference: 10 to 20;
- e) overall quality of the offer, quality of the work plan and methodology : 20 to 30;
- f) qualifications of experts and experience in the field of the assignment: 40 to 60;
- g) ability to deal with local personnel and agencies; language proficiency: 5 to 15.

3.8.9 The numerical ratings as set out in the request for proposals for each factor, shall be attributed for each proposal received and then tabulated on a summary evaluation sheet. The merit points for the factors shall be weighted accordingly and summed up. Such a method provides a reasonable assurance that the evaluation is based on consistent assessment of the various proposals received and that the proper weight is given to each proposal.

3.8.10 The qualifications and experience of proposed personnel are considered as very important in the evaluation. The curricula vitae of key staff members shall be reviewed. The individuals shall be rated according to the three following criteria:

- a) general qualifications : this includes education and training, length of

experience, type of position held, time with the firm, etc.,

- b) adequacy for the project : the suitability to perform the duties for the particular assignment; and
- c) language and experience in the region : this includes background experience in developing countries similar to the country in which the assignment is to be conducted and corresponding linguistic ability.

Financial Evaluation

3.8.11. Following the technical evaluation and where the selection procedure with price considerations or the compatibility of technical proposals and services are the methods selected (paragraph 3.6), the Borrower shall have the option (agreed during project appraisal or at negotiations) to either obtain the “no-objection” of the Bank for the technical evaluation before proceeding to the financial evaluation (Annex 3.2(c), or to complete both technical and financial evaluations and obtain the Bank’s “no-objection” in one step. In either case only the envelopes containing the financial proposals of the consultants retained shall be opened. The proposals are verified, adjustments are made to correct arithmetic errors in the light of deviations or quantifiable reservations or possible benefits to certain public corporations. Price variations applicable to the base price are not taken into consideration at this stage. For the purposes of evaluation, import duties and local taxes shall be excluded. The different currencies of the financial proposals are then converted into a single currency (usually the Borrower’s currency) using the selling rate of the currencies quoted by an official source for similar transactions on the day the financial proposals are opened. The adjusted prices converted to a single currency of the consultants retained are thus obtained and used in subsequent calculations or comparisons.

3.8.12 The prices used in the financial evaluation are those proposed by the consultants and which directly concern their services, namely those that include personnel costs, reimbursable costs for foreign exchange and local currency expenses. Where necessary, these costs shall not include those for sub-contracts covering services such as drilling, land survey, soil study, and specific material which can be negotiated separately. Personnel costs comprise those of headquarters and field staff as well as locally recruited staff; they are calculated on the basis of the number of person/months and comprise the basic salary, overheads, social contributions and the costs of international travel, the transportation of various items of equipment, subsistence allowances, communications, report production and office service costs etc.

3.8.13 On completion of the evaluation of proposals, a report on the evaluation of proposals comprising the evaluation forms together with the recommendations concerning the selection of the consultant shall be addressed to the Bank for comments and approval irrespective of the selection procedure followed. The report shall have copies of the best three evaluated proposals attached to it.

3.8.14 The Bank shall comment on the winning proposal before the Borrower invites the consultant to negotiate a contract, in order to satisfy itself of the adequacy of the proposed work plan and approach, and the qualifications and experience of the personnel proposed for the assignment. The Bank may also request, in particular cases, to review the evaluation report together with all the proposals.

3.8.15 Where the selection of the consultant is based only on technical criteria, the details of the adjustments and arithmetic corrections to prices are worked out during the negotiations; but before an invitation is issued to the best ranked consultant to come for negotiations, the procedures mentioned in paragraphs 3.8.13 and 3.8.14 above must be followed.

3.9 Contract Negotiation

3.9.1 After the Bank's approval of the evaluation of proposals has been completed, the Borrower shall invite the selected consultant to negotiate, in order to finalize the terms of the contract based on the model contract on the one hand and the consultant's proposal on the other. In the invitation the consultant will be informed of:

- a) any special problems found in the proposal review which should be discussed during the negotiations;
- b) the financial data and unit costs to be submitted during negotiations.

3.9.2 The negotiation should start with a discussion of:

- the terms of reference;
- the comments made by the consultant on the scope of services;
- the consultants proposed work programme; and
- the staff proposed for the assignment.

3.9.3 Staff substitution by a consulting firm is undesirable at any time and particularly between receipt of the proposal and commencement of field work. However, if the validity of the proposal has elapsed, staff substitution may be discussed during negotiations. During an assignment, if substitution is necessary for one reason or another in specific cases to be defined in the contract, including force majeure, or if one or more key staff positions prove to be unsuitable, the consultant shall propose other appropriate staff for approval by the Borrower and the Bank. The Borrower shall ensure, and the Bank will satisfy itself of, the competence of replacement staff for key positions.

3.9.4 Financial negotiations should preferably begin with a clarification of the consultant's local tax liability (if any), and how this tax liability will be accommodated in the contract. Usually the price is negotiated when the consultant is selected on the basis of technical criteria. Conversely, when price is considered in the financial evaluation, it is generally not advisable to negotiate a price reduction.

3.9.5 Before finalizing unit costs and the price for services, an agreement must be reached on the support services, which the Borrower would provide. The Bank requires that all parties concerned have a clear understanding of the consultant's privileges and immunities and of the Borrower's supporting facilities, such as personnel (particularly counterparts), offices and local transportation.

3.9.6 If the negotiation with the selected consultant is unsuccessful, the Bank is informed accordingly and with its consent, the consultant ranked second is invited to negotiate the terms of the contract.

3.9.7 The Bank will review and comment on the contract negotiated between the Borrower and the selected consultant, prior to its signature. The contract, as well as any material amendments thereto shall be satisfactory to the Bank. If the Borrower confirms that no change has been made to the approved contract format, the Bank's approval of the negotiated contract can be given by a mere exchange of message.

3.10 Award of Contract

3.10.1 The award is made to the consultant whose proposal has been selected and with whom contract negotiations have been successfully completed.

3.10.2 Where no changes are made to the standard contract included in the request for proposals, a copy signed by both parties is sent to the Bank. Where changes are made to the standard contract, a copy of the negotiated contract shall be submitted to the Bank for comments and approval. Contracts which are finalized without prior approval of the Bank, shall not be financed by the Bank. Once the contract has been signed by the Borrower and the consultant, the Bank shall be informed and a copy of the contract forwarded to the Bank.

3.10.3 After concluding a contract, the Borrower shall inform the other consultants who have responded to the invitation within a period of one week that their proposals have not been retained.

3.11 The Borrower's Contributions

3.11.1 The contributions which the Borrower is in a position to make to the consultant's assignment shall be defined in the terms of reference, indicated in the requests for proposals and finalized in the contract, since they may have a significant impact on the estimated budget for the assignment. The nature and type of these contributions shall be reviewed during negotiations and shall therefore not be included in the cost of the services.

3.11.2 With the exception of a budgetary allocation to cover the entire or part of the local expenditure, these contributions often include the following items:

- a) office space with electricity, water, telephone, equipment, vehicles and maintenance;
- b) housing;
- c) support staff (secretary, messenger, driver, administrative and technical service etc.); and

- d) information, documentation and all studies relating to the assignment.

3.11.3 The value and type of the Borrower's contributions shall be finally concluded during the negotiations.

Counterpart Staff

3.11.4 In general, the Bank insists that during the acquisition of consultancy services qualified counterpart staff employed by the Borrower or its executing agency be involved in the assignment. Ideally, in some types of assignments such as feasibility studies, it would be desirable to assign to each key expert of the consultant's team, a counterpart from the executing agency, if possible temporarily released from his functions.

3.11.5 In view of the staffing constraints of the executing agencies, the number of counterparts shall be determined on an individual basis depending on the importance of the assignment, and the requirements of the executing agency or the Borrower.

3.11.6 The role of the counterpart staff may vary from assignment to assignment, but shall include the following responsibilities and elements:

- a) through a day-to-day contact with the consultant's experts, benefit from a transfer of skills and thus receive on-the-job training;
- b) liaise between the organs of the Borrower and the consultant and assist the latter with data collection, providing it with all available information, documentation and studies on the assignment.

3.11.7 Prior to any final decision regarding the level, qualifications, number and responsibilities of each counterpart, discussions shall be held during the negotiations to determine:

- a) the number and responsibilities of the counterpart staff cooperating with the consultant's team;
- b) the extent to which counterpart staff are released from their normal duties;
- c) the extent to which counterpart staff can fit into the consultants' proposed work schedule;
- d) the arrangements made to cover field and travel expenses of the counterpart staff; and
- e) the arrangements for replacement of unsuitable counterpart staff.

3.12 Training

3.12.1 The strengthening of the national capabilities of executing agencies or agents in the borrowing countries through a transfer of knowledge and skills to local professionals, is of key concern to the Bank.

3.12.2 It is based on programmes which fall within the framework of the assignment whose principal objective may not necessarily be training and transfer of technology, but which meet requirements related to the principal project or its sector. These programmes may provide an opportunity for strengthening the capacity of the counterpart staff involved in the assignment or that of the national staff participating in a joint venture between regional and non-regional consultants.

3.12.3 To enable the successful implementation of this programme, the Borrower must be convinced of its necessity, and consequently select the necessary qualified professionals to participate in it, and release these professionals for the duration of the programme. The consultant must accept this training function and its inclusion as an obligation which is separate and distinct from the other services and propose corresponding costs and an implementation time-frame.

3.12.4 The objectives of the programme must be defined and included in the terms of reference sent to the consultants invited to submit proposals; it will be defined during the negotiations both with regard to trainers, trainees, the skills to be transferred and the time-frame. The Bank has no objections to the cost being incorporated in the estimated budget for services to be acquired.

3.13 Contract Supervision

3.13.1 As previously indicated in para. 2.2.4 of these Rules of procedure, the Borrowers have full responsibility for supervising the consultants. In the course of feasibility and detailed engineering studies, Bank staff may visit the project area for the purpose of exchanging views on work progress, reviewing the consultant's interim findings and, if necessary, assisting Borrowers in resolving problems which may have occurred in the course of work. During project implementation, Bank staff will visit the project area in accordance with the Bank's schedule of project supervision activities. These supervision missions, however, cannot relieve Borrowers of their primary responsibility for supervision of the consultants.

3.13.2 The final draft report of the consultants is evaluated and approved by the Borrowers. The Bank, however, receives copies of the interim reports and final conclusions and recommendations from the Borrowers and formulates comments which shall be taken into consideration.

3.14 Evaluation of Consultancy Services

Upon completion of consultancy services, Borrowers are required to prepare an evaluation report on how well the consultant has performed. The report will be sent to the Bank for record purposes.

3.15 Procedures in Exceptional Cases

3.15.1 The general method described for the acquisition of the highest quality services

through an international competitive procedure (paragraphs 3.4.1 to 3.6.15) could be ineffective under certain exceptional circumstances. In fact, while bearing in mind the considerations of economy and efficiency, it could become necessary to contact directly a single source of consulting firms for the provision of services without using limited competition. Cases of continuity of service have been mentioned (paragraphs 3.4.7 and 3.4.11). The other cases which may be exceptional are:

- a) emergency situations arising from natural disasters or accidents or other disasters requiring prompt action;
- b) assignments requiring single sources of expertise;
- c) cases of insufficient responses to invitations to submit proposals (paragraph 3.8.4); and
- d) continuity of similar services where the original contract was awarded through open international competition based on a short list.

3.15.2 In all these cases, if the consultant is qualified to perform the assignment in question, the Bank, following a justified request by the Borrower, may approve that the latter directly contact the consultant thus identified and negotiate with him the conditions for the acquisition of the services.

4. USE OF INDIVIDUAL CONSULTANTS BY BORROWERS

4.1 Purpose

4.1.1 Individual consultants are normally employed by Borrowers for assignments for which teams of personnel are not required or where these consultants do not require external professional support, or where the skills of the experts concerned are of capital importance. Individual consultants often work alone or, although they are self employed, the Borrower may, for the purposes of an assignment, ask them to form a team. In such a case, the number of consultants to be included in the team should not exceed three. Furthermore, there can be problems relating to the coordination of tasks and the guarantee of the quality of the work and, in such cases, it would be advisable to employ a consulting firm for the assignment. When a team of independent individual consultants is used, it is desirable that one of them be appointed as leader.

4.1.2 In the selection and use of individual consultants, special attention shall be paid to national and regional consultants as described in section 2.9.

4.2 Types of Services

The types of services for which the Borrower often requires services of individual consultants are the following:

- a) preparation of terms of reference;
- b) opening and evaluation of bids for works contracts and supplies, and consultants proposals;
- c) revision and updating of feasibility studies;
- d) preliminary engineering designs;
- e) technical assistance for the qualification of development, economic or sectoral planning, organization and management;
- f) application of the recommendations formulated in a study;
- g) training;
- h) assistance to the Borrower with project implementation, and in particular for the contract and supervision of project implementation, as well as for investigations and technical advice;
- i) the preparation of project completion reports; and
- j) all other necessary assistance decided upon by the Borrower and the Bank.

4.3 Selection Process

4.3.1 The requirement for individual consultancy services for a project financed or to be financed by the Bank is considered by the Borrower and the Bank during appraisal or possibly according to the requirements of the situation and must be the subject of an agreement between the two parties.

4.3.2 The selection process for individual consultants is much simpler than for firms and comprises the following stages:

- a) preparation of the terms of reference and contract format;
- b) preparation of the estimated budget;
- c) preparation of the short list;
- d) evaluation of qualifications and experience;
- e) negotiation of fees and contract terms;
- f) signing of contract; and
- g) supervision and evaluation of services.

4.3.3 For short-term assignments of a few weeks to one or two months, the Borrower may recruit a qualified individual consultant directly on the basis of information available to it or which may be provided by the Bank. The Borrower shall, in particular, consider the consultant's curriculum vitae and references and if these are satisfactory and the latter is available, the fees and contract terms may be negotiated.

4.3.4 For longer assignments, the Borrower shall prepare a short-list of 3 to 4 consultants selected on the widest possible geographical base, containing no more than two consultants of the same nationality, using the Borrower's own sources of information and/or those of the Bank. These individual consultants may also be recruited through academic or international organizations or consulting firms. The independent technicians and specialists are less well known than consulting firms particularly those of regional countries. Consequently, when Borrowers experience difficulties in finding qualified applicants as individual consultants, the Bank is willing in particular instances, to assist them with the recruitment, under the same conditions as those described in paras. 3.1.5 and 3.1.6.

4.3.5 Once the short list is established, the Borrower shall, on the basis of the curriculum vitae and other relevant information available to it, evaluate the qualifications and experience of each consultant, particularly in the field of the assignment concerned and classify them by order of merit.

4.3.6 The criteria to be used in the evaluation are the following:
(numerical ratings are given as examples)

- a) general qualification and suitability

- for the task to be performed :..... 45%
- b) experience in the specific assignment described in the terms of reference : 40%
- c) language proficiency: 10%
- d) knowledge of the region : 5%.

4.3.7 The Borrower shall contact the first individual consultant on the list and, if he/she is available, fees and contract terms shall be negotiated. The negotiations which may sometimes begin with interviews continue until one of the short-listed consultants is definitively retained for the assignment.

4.3.8 The Bank only requires that the terms of reference, professional and academic references of the consultant and terms of recruitment be submitted for its approval prior to the negotiations.

4.3.9 Control of the performance of the assignment, supervision of the consultant and the evaluation of the services provided shall be undertaken by the Borrower under the same conditions as those defined above (paragraph. 3.14).

5. CONSULTING FIRMS USED BY THE BANK IN ITS CAPACITY AS EXECUTING AGENCY FOR OTHER ORGANIZATIONS

5.1 The Bank may call on individual consultants or consulting firms for services such as those described in sections 2.4 and 4.2, on behalf of organizations or institutions.

5.2 Their activities may fall within the framework of cooperation between a "cooperating institution" and the Bank as the executing agency of the latter. In this case, prior to any action, the Bank and the "cooperating institution" shall carefully determine the service requirements to be considered, the terms of reference and also the stages to be covered by the Bank in the process for the selection (sections 3.2 and 4.3) and use of consultants.

5.3 The Bank awards contracts directly to consulting firms in the case of assignments for which it is the executing agency. The selection processes and procedures followed by the Bank in such cases are, in their broad lines, the same as those described in the Rules of procedure for the use consultants by Borrowers.

5.4 The "cooperating institution" is closely involved in the different stages of the selection and use of consultants. The procedure is the following : the terms of reference for the services of consultants and the requests for proposals are prepared by the Bank and submitted to the Borrower/cooperating institution for comments and approval. The same applies to the short list of consultants which is prepared by the Bank and also submitted to the cooperating institution for approval. The Requests for Proposals, the fixing of the time intervals for the submission of proposals and evaluation are undertaken by the Bank. A report on the evaluation of proposals is sent to the cooperating institution for comments. Negotiation of the contract is carried out by the Bank with the participation of a representative of the Borrower/cooperating institution.

5.5 With the exception of the provisions of the above paragraphs (5.2, 5.3 and 5.4) the Bank's internal operational procedures are applicable to all the activities of the Executing Agency.

5.6 In its capacity as Executing Agency, the Bank is responsible for the control and supervision of the consultants whose services it retains. However, it often comes to an agreement with the "cooperating institution" by special arrangement to ensure that the latter controls the consultant's work in the field: reports on the consultancy services may be presented to the "cooperating institution" and considered by it prior to submission to the Bank.

ANNEXES

ANNEX 1

1. SELECTION OF PARTICULAR TYPES OF CONSULTANTS

1.1 Selection of United Nations Agencies as Consultants

Many UN agencies are uniquely qualified to provide technical assistance and advice in their area of expertise and do so under UN programmes in borrower countries. The Bank encourages partnership with UN agencies in its activities in borrower countries. At the same time, most agencies are generally not equipped to compete with private firms, nor do they wish to do so. For these reasons, Borrowers may hire UN agencies through single source selection procedure (see paragraph 3.15), provided the agency is specialized in the sector (e.g.WHO for health, ILO for training, etc.) and uniquely and exceptionally qualified for the assignment and the contract value is not large. For large-value contracts, if the UN agencies wish to compete, they may be considered for inclusion in the short list and invited to submit proposals; however, they shall not receive any preferential treatment in the selection process, or in the contract conditions. Borrowers may at their option extend to UN agencies, the privileges and immunities granted to them and their staff under existing international conventions and may agree with UN agencies on special payment arrangements acceptable to the bank and designed to accommodate their status as non-profit making international organizations. In the case of competitive selection, if it is determined, that their staff are already covered by privileges and immunities under existing international conventions, such privileges like tax exemption and other facilities, like special payment provision, shall be neutralized in the cost comparison for evaluation purposes.

1.2 Services of Non-Governmental Organizations (NGOs)

NGOs are often uniquely qualified to manage/implement projects in the social sectors, essentially because of their involvement and knowledge of local issues, community needs and participatory approach. They are often voluntary or non-profit in nature. For assignments in the social sectors, NGOs may be included in the short list, if they express their interest, provided the borrower and the Bank are satisfied about their qualifications. For small-scale operations requiring a good knowledge of the region, the Bank may accept single source direct selection of NGOs (see para. 3.15).

1.3 Procurement Agents

When a borrower lacks the necessary organization, resources and experience, it may be efficient and effective for it to employ as its agent, a firm that specializes in handling international procurement. Such procurement agents shall be selected on the percentage of the total procurement and person-month rates. These agents shall provide only advisory services for procurement in which case, the services are the same as those of a normal consulting assignment and the contract of the same type as those used habitually.

1.4 Inspection Agents

Borrowers may wish to employ preshipment inspection agencies to inspect and certify imports. The services of such agencies usually cover the quality and quantity of goods concerned and the reasonableness of price. They shall be selected using a contract format with payments based on a percentage of the value of goods inspected and certified.

1.5 **Banks**

The services of investment and commercial banks, finance firms, fund managers may be used by borrowers for the sale of assets especially in the context of privatization operations. The request for proposal (RFP) shall specify the selection criteria relevant to the activity and the cost of the services. In addition to the conventional remuneration (called a retainer fee), the compensation includes a success fee, which may be fixed but usually expressed as a percentage of the value of the assets sold. The RFP shall indicate that the cost evaluation will take into account the success fee either in combination with the retainer fee or alone; if alone, a standard retainer fee shall be prescribed for all short-listed consultants and indicated in the RFP; the financial scores shall be based on the success fee as a notional value of the assets. The RFP shall indicate clearly how fee proposals shall be presented and how they will be compared.

ANNEX 2

2. ADVANCE ACTIONS FOR THE ACQUISITION OF CONSULTANCY SERVICES (AAA)

2.1 Introduction

2.1.1 In particular instances or for major projects, when it appears that the advance award of contracts for the acquisition of consultancy services is a vital factor for the rapid implementation of the project, the Borrower may, with the Bank's prior approval, follow the selection process up to the point of recruitment without, however, having signed a corresponding contract prior to the approval of the project by the Boards of Directors. In such cases, the Bank requires the Borrower to submit for its approval all the documents and stages of the selection process, in conformity with the Rules of procedure for the use of consultants by Borrowers.

2.1.2 Approval by the Bank of such an advance action for the acquisition of consultancy services shall in no way be binding on the Bank to grant a loan or grant to the corresponding project or service.

2.2 Procedure

2.2.1 To authorize the Borrower to take AAA the Bank shall take into consideration the limitations, safeguards and follow the approval procedure described below.

Scope of Application of AAA

2.2.2 The scope of application of AAA shall be restricted to studies.

2.2.3 When the financing of the necessary studies to prepare the implementation of a project is not available in the form of bilateral subsidies, technical assistance funds or any other type of resources, it will be necessary to include the cost of preparatory studies in the project cost. In order to speed-up project implementation, AAA could be necessary for such studies. The preparatory studies in question in this case could comprise: the updating or preparation of detailed designs, bidding documents or other studies related to institutional support and project management.

Decision to Proceed with AAA

2.2.4 The decision to authorize the Borrower to proceed with AAA should be taken with caution by the Bank. In principle, with the exception of studies, AAA shall only be authorized after preparation or pre-appraisal, to enable the Bank to ensure that the overall project design is acceptable and to determine the objectives, scope and other characteristics of the studies requiring AAA.

2.3 Safeguards

The following safeguards are recommended for AAA and should be clearly indicated and discussed with prospective Borrower requesting to proceed with the AAA:

- i) the Borrower shall be fully aware that AAA is taken at its own risk and it in no way obliges the Bank to award a loan or grant for the project in question;
- ii) the Borrower shall be fully aware that AAA, to be eligible for Bank financing, shall be carried out in accordance with the Bank's procedures; and
- iii) announcements in the case of AAA should mention that the Borrower has requested a loan or grant from the Bank and that the contract award will be subject to approval of the loan or grant by the Bank.

2.4 Bank Approval Process

2.4.1 The Bank staff shall consider any request for AAA submitted by the Borrower by taking into consideration the limitation mentioned in this document. The decision to authorize the Borrower to take AAA shall be the responsibility of the Regional Vice-President concerned.

2.4.2 The Boards of Directors will subsequently be informed through a special note that an application for AAA is under consideration for components of specific projects. The Vice-President concerned shall be responsible for informing the Boards.

2.4.3 The appraisal report prepared by Bank staff shall mention and provide justification for the use of AAA for specific components of studies.

ANNEX 3**REVIEW BY THE BANK OF THE SELECTION OF CONSULTANTS****3.1 Scheduling of the Acquisition of Consultancy Services**

The Bank shall review the selection process for the hiring of consultants proposed by the Borrower, including the contract packaging, applicable procedures, the short list, selection criteria, etc. for its conformity with these Rules and the proposed implementation programme and disbursement schedule. The Borrower shall promptly inform the Bank of any delay, or other changes in the scheduling of the hiring process, which could significantly affect the timely and successful implementation of the project, and agree with the Bank on corrective measures.

3.2 Review by the Bank

The following procedures for the acquisition of consultancy services shall apply to all project contracts funded by the Bank:

- (a) In cases where pre-qualification is used, the Borrower shall, before pre-qualification submissions are invited, provide the Bank with the draft documents to be used, including the text of the invitation to pre-qualify, the pre-qualification questionnaire, and the evaluation methodology, together with a description of the advertising procedures to be followed, and shall introduce such modifications in said procedure and documents, as the Bank shall reasonably request. The list of pre-qualified applicants, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for pre-qualification, shall be provided by the Borrower to the Bank for its comments before the applicants are notified of the Borrower's decision, and the Borrower shall make such additions to, deletions from or modifications in the said list as the Bank shall reasonably request.
- (b) Before inviting proposals, the Borrower shall provide the Bank for its review with the proposed Request for Proposals (including the short list) and shall make such modifications in the documents as the Bank shall reasonably request. Any further modification shall require the Bank's no-objection before the Request for Proposal (RFP) is issued to the short-listed consultants.
- (c) After the technical proposals have been evaluated,
 - (i) where it is included in the Loan Agreement that the Borrower's technical evaluation shall be reviewed by the Bank prior to the opening of the financial proposals, the Borrower shall furnish to the Bank, in sufficient time for its review, a technical evaluation report (prepared, if the Bank shall so request, by experts acceptable to the Bank) together with copies of the proposals, if requested by the Bank. If the Bank determines that the technical evaluation is inconsistent with the provisions of the Request for Proposals, it shall promptly inform the Borrower and state the reasons for its

determination. The Borrower shall proceed with financial evaluation of the technically acceptable proposals as soon as he receives the Bank's "no-objection" to the technical evaluation of the proposals. The Borrower shall require the Bank's "no-objection" in case of rejection of all proposals.

- (ii) Where it is included in the Loan Agreement that the Borrower shall undertake both the technical and financial evaluation in one step before Bank review, the Borrower shall proceed with the financial evaluation. This procedure may be authorised by the Boards of Directors depending on the nature of the assignment and the capacity of the Executing Agency.
- (d) The Borrower shall proceed with opening of the financial envelopes of the consultants retained and then carry out the financial evaluation in accordance with the provisions of the Request for Proposals. The Borrower shall furnish to the Bank, in sufficient time for its review, the final evaluation report along with its proposal on the selected firm for award of contract, as well as such other information as the Bank may reasonably request. If the Bank determines that the evaluation and proposed selection are inconsistent with the provisions of the RFP, it shall promptly inform the Borrower and state the reasons for its determination. If not, the Bank shall advise its "no-objection" to the proposed selection.
- (e) The Borrower shall promptly inform the Bank of any delay, or other changes in the scheduling of the hiring process, that could significantly affect the timely and successful implementation of the project, and agree with the Bank on corrective measures. If the Borrower requires an extension of proposal validity to complete the evaluation process, obtain necessary approvals and clearances, and make the award, it shall notify the Bank (in accordance with the provisions of the RFP) and seek Bank's concurrence if the first request for extension exceeds sixty days and for all subsequent request for extension, irrespective of the period.
- (f) After negotiations are completed, the Borrower shall provide the Bank with the final draft of the contract, highlighting any substitution of key staff or changes in the TOR and contract on which proposals were invited. The terms and conditions of a contract shall not, without the Bank's no-objection, substantially differ from those on which proposals were invited. The Borrower shall award the contract only after receiving the no-objection from the Bank.
- (g) One conformed copy of the contract shall be sent to the Bank, promptly after its execution and prior to delivery to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract.
- (h) All evaluation reports shall be accompanied by (a) the technical and financial proposals of the best three (3) offerers, and (b) a summary of the procurement on a form provided by the Bank.

3.3

Amendments, Modifications or Extensions

Before granting a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 % of the original amount, the Borrower shall inform the Bank of the proposed extension, modification, substitution, waiver of change, and the reasons therefore. If the Bank determines that the proposal would be inconsistent with the provisions of the Loan Agreement, it shall promptly inform the Borrower and state the reasons for its determination. A copy of all amendments to the contract shall be furnished to the Bank for its record.

ANNEX 4

GUIDANCE TO CONSULTANTS

4.1 Purpose

This Annex provides guidance to potential consultants wishing to participate in Bank-financed consultancy services.

4.2 Responsibility for Acquisition of Consultancy Services

As emphasized in paragraph 2.2.4 of the Rules, the Borrower is legally responsible for the acquisition of consultancy services. It invites, receives, and evaluates proposals, and awards the contract. The contract is between the Borrower and the Supplier or Contractor. The Bank is not a party to the contract.

4.3 Bank's Role

4.3.1 As stated in paragraph 2.2.5 of the Rules of Procedure, the Bank requires that it be given the opportunity to approve or comment at every stage of the selection process, to ensure that the process is carried out in accordance with agreed procedures, as required in the Loan Agreement. The documents are reviewed by the Bank prior to their issue, as described in Annex 3. If, at any time in the acquisition process (even after the award of contract), the Bank concludes that the agreed procedures were not followed, during any given stage, the Bank may declare misprocurement, as described in paragraph 2.10 of the Rules. However, if a Borrower has awarded a contract after obtaining the Bank's "no objection", the Bank will declare misprocurement only if the "no objection" was issued on the basis of incomplete, inaccurate or misleading information furnished by the Borrower. Furthermore, if the Bank determines that corrupt or fraudulent practices were engaged in by the representatives of the Borrower or of the offeror, the Bank may impose the applicable sanctions set forth in paragraphs 2.11 of the Rules.

4.3.2 The Bank has published Standard Documents for various types of procurement. As stated in paragraph 3.7.2 of the Rules, it is mandatory for the Borrower to use these documents, with minimum changes to address country-and project-specific issues. The pre-qualification and requests for proposals documents are finalized and issued by the Borrower.

4.4 Information to Consultants

As stated in paragraph 2.7.1, the Bank provides for consultants, several sources of information on its operations: namely, Quarterly Operational Summary of Projects; the General Procurement Notice and the announcement (press release), once a loan or grant is approved. For assignments of value less than UA 350,000, an advertisement shall be published in the local press, with copies to the official representatives of member countries in the Borrower's country. For all others, the advertisement shall also be published in the United Nations Development Business (UNDB).

4.5 The Role of the Consultant

4.5.1 Once a consultant receives the pre-qualification or request for proposals document, the consultant should study the documents carefully to decide if it can meet the technical, financial and contractual conditions, and if so, proceed to prepare its offer. The consultant should then critically review the documents to see if there is any ambiguity, omission or internal contradiction, or any feature of the terms of reference or other conditions which are unclear or appear discriminatory or restrictive; if so, it should seek clarification from the Borrower, in writing, within the time period specified in the request for proposals documents for seeking clarifications.

4.5.2 The criteria and methodology for selection of the successful consultant are outlined in the request for proposals documents, generally under instructions to offerors. If these are not clear, clarification should be similarly sought from the Borrower.

4.5.3 In this connection, it should be emphasized that the specific requests for proposals documents issued by the Borrower govern each procurement, as stated in paragraph 3.7.3 of the Rules. If a consultant feels that any of the provisions in the documents are inconsistent with the Rules, it should also raise this with the Borrower.

4.5.4 It is the responsibility of the consultant to raise any issue of ambiguity, contradiction, omission, etc., prior to the submission of its offer, to assure submission of a fully responsive and compliant proposal, including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the CVs of key staff submitted with the proposal. The CVs shall be signed by the consultants and the individual and dated. Noncompliance with critical (technical and financial) requirements will result in rejection of the proposal. If a consultant wishes to propose deviations to a basic requirement, or propose an alternative solution, the consultant should quote the price for the fully compliant proposal and then separately indicate the adjustment in price that can be offered if the deviation or alternative solution is accepted. Once proposals are received and opened, consultants will not be required or permitted to change the price or substance of a proposal.

4.6 **Confidentiality of Procedures**

As stated in paragraph 2.11, the process of proposal evaluation shall be confidential until the award is notified. This is essentially to enable the Borrower and Bank reviewers to avoid either the reality or perception of improper interference. If at this stage a consultant wishes to bring additional information to the notice of the Borrower, the Bank, or both, it should do so in writing.

4.7 **Action by the Bank**

4.7.1 Consultants are free to send copies of their communications on issues and questions with the Borrower to the Bank or to write to the Bank directly, when Borrowers do not respond promptly, or the communication is a complaint against the Borrower. All such communications should be addressed to the Director of the Department for the relevant region for the borrowing country, with a copy to the Bank's Unit in charge of procurement monitoring.

4.7.2 References received by the Bank from short listed consultants, prior to the

closing date for submission of the proposals, will, if appropriate, be referred to the Borrower with the Bank's comments and advice, for action or response.

4.7.3 Communication received from consultants after the opening of the proposals will be transmitted to the Borrower for examination and response to the consultant and the Bank. If additional data is required to complete this process, these will be obtained from the Borrower. If additional information or clarification is required from the consultant, the Bank will ask the Borrower to obtain it and comment or incorporate it, as appropriate, in the evaluation report. The Bank's review will not be completed until the communication is fully examined and considered.

4.7.4 Except for acknowledgment, the Bank will not enter into discussion or correspondence with any consultant during the evaluation and review process of the procurement, until award of the contract is notified.

4.8 **Disbursements**

4.8.1 The responsibility for the implementation of the project, and therefore for the payment of goods, works and services under the project, rests solely with the Borrower. The Bank, for its part, is required by its Articles of Agreement to ensure that funds are paid from a Bank loan only as expenditures are incurred. Disbursements of the proceeds of a loan are made only at the Borrower's request. Supporting evidence that the funds are used in accordance with the Loan Agreement shall be submitted with the Borrower's withdrawal application. Payment may be made: (i) to reimburse the Borrower for payment(s) already made from its own resources; (ii) directly to a third party (usually to a supplier or consultant); (iii) to a commercial bank for expenditures against a Bank Special Commitment covering a commercial bank's letter of credit; or (iv) through a revolving fund account.

4.8.2 The terms of payment are normally specified in the contract. Disbursement under a contract shall be made in the currency or currencies in which the contract price was quoted. If the percentage of payments to be made in other currencies is indicated in the contract, the exchange rates used for the payment should be those indicated in the contract. In drawing up the payment terms, the borrower shall take into account the minimum amounts of the request for disbursement. Such terms must be compatible with the minimum amounts, if necessary, through a grouping of bills.

A complete description of the Bank's disbursement procedures is provided in the Procurement Handbook.

4.8.3 In circumstances where the a Borrower fails to meet its obligations to the Bank, to make timely payments of amounts due in respect of the principal, interests and other charges, the Bank will impose sanctions on loan signatures by the Borrower, approval of loans to the Borrower and suspension of disbursement of loans to the Borrower. These degrees of sanctions will be dependent on the duration of the default in payment.

