Procurement Guidelines for

Japanese Grants

(Type III)

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Japan International Cooperation Agency

(JICA)

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PART I Basic Principles

I- I Introduction

I-I-1 These Guidelines (Type III), which have been prepared by the Japan International Cooperation Agency (hereinafter referred to as "JICA"), sets forth the general rules to be followed by the Government of the recipient country (hereinafter referred to as "the Recipient") in using a Japanese Grant (hereinafter referred to as "the Grant") for the procurement of products and services（hereinafter respectively referred to as the "Products" and "Services" for implementation of the project/programme (hereinafter referred to as "the Project/Programme"), which is agreed upon in the Exchange of Notes (hereinafter referred to as "E/N") between the Government of Japan and the Recipient. These Guidelines (hereinafter referred to as "the Guidelines") are applicable to procurement by the procurement agent (hereinafter referred to as "the Agent").

I-I-2 The application of the Guidelines to a particular programme funded by the Grant will be stipulated in the Grant Agreement (hereinafter referred to as "G/A") concluded between JICA and the Recipient.

I-I-3 The rights and obligations of the Recipient, the Agent, the firm(s) which supplies or provides the Products and Services for the Project/Programme (hereinafter referred to as "the Firm") and the consultant(s) which renders consultancy services for the Project/Programme (hereinafter referred to as "the Consultant") are governed by the employment contract (hereinafter referred to as "the Agent Agreement") concluded between the Recipient and the Agent, which is defined in the Agreed Minutes on procedural details (hereinafter referred to as "A/M") signed together with the E/N and in the G/A, by the tender documents, and by the contracts concluded between the Agent and the Firm and/or the Consultant (hereinafter referred to as "the Contract"), and not by the Guidelines.

I-II Parties Concerned

In the Guidelines, the Grant means a set of arrangements where, based on the E/N between the Government of Japan and the Recipient, JICA concludes a G/A with the Recipient and provides to the Recipient, a grant to be expended for procuring the Products and Services necessary for the

implementation of the Project/Programme, whereas the Recipient implements the Project/Programme using the Grant. The roles of the concerned parties, including the Government of Japan, JICA, the Recipient, the Agent, the Firm and/or the Consultant in relation to the implementation of the Project/Programme under the Grant are understood as follows:

I-II-1 The Government of Japan decides that the Grant be extended for the Project/Programme.

I-II-2 JICA executes the Grant by making payments of the amount agreed upon in the E/N and pays serious attention to ensure accountability on the proper and effective use of the Grant for the Project/Programme.

I-II-3 The Recipient is the beneficiary of the Grant and is responsible for the implementation of the Project/Programme. The Recipient entrusts the Agent with the procurement of the Products and Services.

I-II-4 The Agent is an impartial and specialized organization which provides services to procure Products and Services on behalf of the Recipient, in accordance with the Agent Agreement with the Recipient.

I-II-5 The Firm is the contractor who supplies or provides the Products and Services for the Project/Programme in accordance with the Contract.

I-II-6 The Consultant (physical persons or juridical persons including universities, NGOs, and others with expertise and experience) is the contractor(s) that will be employed to do detailed design and supervise the work and/or the training/guidance work to facilitate the operation and maintenance of equipment/facilities for the Project/Programme in accordance with the Contract.

I-III Safety Considerations

The Recipient shall comply with all applicable safety regulations and ensure that all possible safety measures are taken.

PART II Guidelines for the Use of the Agent

II-I General

II-I-1 Role of the Agent

The Agent shall provide services for the procurement of Products and Services for the Project/Programme on behalf of the Recipient. The Agent

shall render such services with due expertise and in a fair and impartial manner to ensure the smooth and proper implementation of the Project/Programme.

The Agent shall work to maintain the rights and interests of the Recipient and maximize the impacts of the Project/Programme. The Agent is also required to minimize the burden of the Recipient when possible.

II-I-2 Agent Agreement

The Recipient shall, with the approval of JICA, conclude an Agent Agreement with the Agent in accordance with the G/A.

II-I-3 Services of the Agent

The Agent shall conduct the services referred to in Schedule II of the G/A on behalf of the Recipient.

II-II Approval of the Agent Agreement

II-II-1 General

The Agent Agreement is prepared as two identical documents. One copy of the Agent Agreement shall be submitted to JICA by the Recipient through the Agent. JICA confirms whether or not the Agent Agreement has been concluded in conformity with the G/A and the Guidelines, and approves the Agent Agreement.

The Agent Agreement concluded between the Recipient and the Agent shall become eligible for the Grant and its accrued interest after approval by JICA in written form.

II-II-2 Reference to the G/A

The Agent Agreement shall refer to the G/A as follows: “JICA shall extend the Grant to the Government of (name of recipient country) in accordance with the G/A signed on (date of signature) between JICA and the Government of (name of recipient country).”

II-II-3 Scope of the Services

The scope of the Agent's services shall be clearly specified in the Agent Agreement. An Agent Agreement in which the scope of the Agent's services are in conflict with the G/A will not be approved by JICA.

II-II-4 Completion of the Services

The Agent Agreement shall clearly state that when the all of the funds that were transferred from a Yen ordinary deposit account(s) for the Subproject(s) (Procurement by the Agent) (hereinafter referred to as “the Recipient

Account") at a bank in Japan designated by the Authority to an account in the name of the Agent (hereinafter referred to as "the Procurement Account") has been paid for the procurement of the Products and Services, or when the remaining amount of said funds has been transferred from the Recipient Account to an account designated by JICA, the Agent's services shall be regarded as complete.

II-II-5 Agent's Fees

The amount, currency and calculations of Agent's fees shall be precisely and correctly stated in the Agent Agreement. The conditions and the amount of or calculations for additional fees to which the Agent is entitled shall also be clearly stated.

II-II-6 Approval of the Agent Agreement

The Agent Agreement shall clearly state that it shall become eligible for the Grant and its accrued interest after approval by JICA in written form.

II-II-7 Payment Methods

The Agent Agreement shall stipulate that "regarding all transfers of funds to the Agent, the Recipient shall designate the Agent to act on behalf of the Recipient and issue a Blanket Disbursement Authorization to conduct the transfer of funds (hereinafter referred to as "the Advances") to the Procurement Account from the Recipient Account."

The Agent Agreement shall clearly state that payment to the Agent shall be made in Japanese yen from the Advances and that the final payment to the Agent shall be made when the total remaining amount and its accrued interest, excluding the Agent's fees, are completely disbursed from the Procurement Account.

II-II-8 Force Majeure

The conditions of the Agent Agreement shall contain a clause stating that failure on the part of the Agent to fulfill obligations under the Agent Agreement would not be considered a default if such failure is the result of an event of force majeure. The scope of force majeure shall be defined in the conditions of the Agent Agreement.

II-II-9 Responsibilities and Obligations of the Recipient

The Agent Agreement shall clearly state the responsibilities and obligations of the Recipient in accordance with the G/A.

II-II-10 Amendment to the Agent Agreement

If an amendment to the Agent Agreement is required, the amended Agent

Agreement shall clearly state that:

(1) all the clauses except that which is / are amended, remain unchanged; and

(2) the amendment to the Agent Agreement shall become eligible for the Grant and its accrued interest only after approval by JICA in written form.

PART III Guidelines for the Procurement of Products and Services by the Agent

III-I General

III-I-1 Products and Services Eligible for Procurement

The Products and Services to be procured shall be defined in the G/A.

III-I-2 Firm and Consultant

(1) In principle, eligible source countries of firms for construction works necessary for the implementation of the Programme, shall be Japan and the country of the Recipient as long as the firms satisfy the conditions specified in the tender documents.

Additionally, firms of any nationality may be contracted as suppliers as long as the firms satisfy the conditions specified in the tender documents.

(2) Notwithstanding provision (1) above, as a general rule, the Consultant may be Japanese nationals* recommended by JICA, for the purpose of maintaining technical consistency with the preliminary examination and other related studies in which the outline of the Project/Programme has been prepared (hereinafter referred to as “the Studies”).

The recommendation of a Consultant by JICA does not mean that JICA shall assume the responsibilities of the Consultant to the Agent for the Recipient based on the Contract.

In cases other than those where JICA recommends a Consultant to the Recipient, guidelines issued by the Agent shall be applied to the selection of the Consultant.

(*The term “Japanese nationals,” wherever used in the Guidelines, means Japanese physical persons or Japanese juridical persons controlled by Japanese physical persons.)

III-I-3 Misprocurement

JICA requires that, under contracts funded with the Grant or other

Japanese Official Development Assistance (hereinafter referred to as "Japanese ODA"), tenderers, the Firm and the Consultant, as well as the Recipient observe the highest standard of ethics during the procurement and execution of such contracts. In this regard, JICA will demand that the Recipient and the Agent reject a tender if it determines that the tenderer recommended for the award has engaged in corrupt or fraudulent practices in competing for the contract in question. JICA will recognize a physical or juridical person as ineligible, for a period determined by JICA, to become a party to, to become a subcontractor under, or to be delegated any responsibilities under any contract funded with the Grant or other Japanese ODA, if JICA, at any time, determines that the person has engaged in corrupt or fraudulent practices in competing for, or in executing another contract funded with the Grant or other Japanese ODA.

When JICA receives information concerning suspected corrupt or fraudulent practices in the competition for, or in the execution of a contract funded by the Grant, the Recipient shall provide JICA with such information as JICA may reasonably request, which includes information related to any concerned official of the government and/or public organizations of the Recipient's country.

The Recipient shall not unfairly or unfavorably treat the physical persons and juridical persons who provided the information concerning suspected corrupt or fraudulent practices in the competition for, or in the execution of a contract funded by the Grant to JICA and/or the Recipient.

If the relevant authorities of the Government of Japan decide to impose administrative sanctions such as debarment or exclusion of products manufactured, etc. from Japanese governmental procurement on a firm, JICA may ask the Recipient and the Agent to exclude products manufactured by the sanctioned firm from procurement under the Grant for the period of the sanctions by such authorities.

III-II Procurement Procedures

III-II-1 Transfer of Funds

The Agent shall take necessary measures for transferring the funds necessary for the procurement of the Products and Services from the Recipient Account to the Procurement Account prior to the procurement procedures.

III-II-2 Method of Procurement

(1) Competitive Tendering

In implementing procurement, sufficient attention shall be paid so that there is no unfairness among tenderers who are eligible for the procurement of the Products and Services. For this purpose, competitive tendering shall be employed in principle.

(2) Other Procurement Methods

The Agent is permitted to proceed with procurement through selective tendering, international shopping or direct contracting if competitive tendering is deemed inappropriate or impractical due to any of the following special situations:

1) when spare parts or accessories, etc. for existing equipment or equipment manufactured by specified manufacture are procured (In this case, direct contracting is expected.);

2) when there are adequate reasons to maintain uniformity and continuity of the Products and Services provided under an existing contract (In this case, direct contracting is expected.);

3) when the number of firms to satisfy the conditions is limited (In this case, selective tendering or international shopping is expected.);

4) when it is quite doubtful that the prospective tenderers would be interested in participating in competitive tendering, and thereby the advantages of competitive tendering would be outweighed by the administrative burdens involved (In this case, selective tendering or international shopping is expected.);

5) part or all of the tender procedure was not successfully completed and re-tendering is implemented (In this case, selective tendering or international shopping is expected.);

6) when emergency procurement is required (In this case, selective tendering or international shopping is expected.); and/or

7) when consultants are to be selected (In this case, competitions among Technical Proposals and financial proposals or direct contracting with the consultant recommended by JICA is expected).

When a procurement method other than competitive tendering is employed, the Agent shall implement procedures in such a manner as to comply with the competitive tendering procedures described in the Guidelines to the fullest possible extent, in order to ensure transparency in the selection

procedures.

(3) Modifications of the Project/Programme

The Grant must only be used for procuring the Products and Services necessary for implementing the Project/ Programme, as based on the Studies. Therefore, the Recipient is to implement each component based on the items listed on a report of the Studies prepared and submitted for the Recipient by JICA and/or concerned parties.

However, if the content of the Project/Programme is be modified due to various reasons at the stage of determining the details or implementing the Project/Programme, the Recipient must obtain prior approval from JICA.

Modification of the design shall be limited to the following circumstances:

(a) drawings and specifications contain inaccuracies or deficiencies;

(b) drawings and specifications contain ambiguous or unclear expressions;

(c) the actual natural or artificial conditions including, but not limited to, land configuration, nature of soil, ground water, and limiting factors for the execution of the construction or procurement works at the project site are different from those expressed in the drawings and specifications;

(d) unforeseeable special situations occur in the conditions that are not specified in the drawings and specifications;

(e) a necessity to restore a scope which had been scaled down during the detailed design in order to meet budgetary constraints based on the amount of the Grant; and

(f) other modifications which will not change the basic concept and plan of the original plan, where JICA deems it appropriate.

If the modifications of the Project/Programme are beyond the concept of the Studies, the Recipient must obtain prior approval from JICA under the consensus of the consultative committee stipulated in the G/A (hereinafter referred to as “the Committee”) via the Agent.

Prior consent for modifications to Project/Programme is conducted by JICA to ensure that these modifications are appropriate and to check if any modifications to the contract price are required. However, this does not mean that JICA will assume any legal or technical responsibilities for the substance

of the modifications.

(4) Handling of the Remaining Amount

1) "The Remaining Amount" refers to the difference in amount between "the total amount of the Grant, accrued interest and, where available, the resources received as delay damages, compensations or penalty(ies) (hereinafter referred to as "the Charges")" and "the total amount paid to the Firm, the Consultant and the Agent."

2) A request for allocation of the remaining balance of the Grant with the reason thereof shall be submitted to JICA, before any action is taken in relation to the use of the remaining balance of the Grant.

3) The allocation of the Remaining Amount shall be used in accordance with JICA's Guidelines on the Grant for Contingencies.

4) Authorization Process for Using the Remaining Amount

The following steps shall be taken to obtain approval from JICA to use the Remaining Amount:

a) the implementing agency of the Recipient submits a proposal to the Committee via the Agent regarding the use of the Remaining Amount and obtains their agreement; and

b) JICA responds to the implementing agency of the Recipient via the Agent.

III-II -3 Type of Contract

The contract shall be concluded on the basis of a lump sum price.

III-II-4 Size of Tender Lot

If a tender lot may be technically and administratively divided and such a division is likely to result in the broadest possible competition, the tender lot should be divided into two or more lots. However, in the interest of obtaining the broadest possible competition, any one lot for which a tender is invited should, whenever possible, be of a size large enough to attract tenderers.

III-II-5 Tender Conditions

The Agent shall fully study and consider technical specifications, construction period, required technical standards, prices, manufacturing, transportation and trade regulations, etc. regarding the Products and Services to be procured and finalize appropriate tender and procurement conditions after obtaining confirmation from the Recipient. Also, expected procurement prices (referential prices) shall be set in advance for reference in the selection of firms.

III-II-6 Public Announcement

Public announcement shall be carried out in such a way that all potential tenderers will have fair opportunity to learn about and participate in the tender.

The invitation to prequalification or to tender shall be publicized at least in a newspaper of general circulation in the recipient country (or neighboring countries) or in Japan, and on an easily accessible website operated by the Agent. The items to be contained in the public announcement are as follows:

(1) name of the Grant;

(2) names of the Products and Services to be procured;

(3) name of the Agent and contact information, including the location of its website (created as an agent for the Recipient);

(4) required qualifications of tenderers;

(5) date, time and place of the distribution and price of tender documents; and

(6) other relevant information considered to be necessary for firms to determine whether to participate in the tender.

The Agent is required to publicize the information from (1) to (3) above in the newspapers if other details including (4) to (6) above are advertised on the website of the Agent.

III-II-7 Language

The tender invitation, tender documents and contracts should be prepared, in principle, in English, French or Spanish. In the case that an announcement is made in a newspaper in circulation in Japan, a Japanese translation shall be attached when possible.

III-III Tender Documents

III-III-1 General

(1) The tender documents should contain all information necessary to enable tenderers to prepare valid offers for the Products and Services to be procured for the Project/Programme.

(2) The rights and obligations of the Recipient, the Agent and the Firm and/or the Consultant regarding the Products and the Services should be stipulated in the tender documents to be prepared by the Agent. The tender documents shall be prepared in consultation with the Recipient.

(3) The tender documents shall clearly state that JICA will extend the Grant to

the Recipient in accordance with the G/A signed on (date of signature) between JICA and the Recipient.

(4) The tender documents shall clearly state that JICA requires that, under contracts funded with the Grant or other Japanese ODA, tenderers, the Firm and the Consultant, as well as the Recipient observe the highest standard of ethics during the procurement and execution of such contracts. In this regard, JICA will demand that the Recipient and the Agent reject a tender if it determines that the tenderer recommended for the award has engaged in corrupt or fraudulent practices in competing for the contract in question. JICA will recognize a physical or juridical person as ineligible, for a period determined by JICA, to become a party to, to become a subcontractor under, or to be delegated any responsibilities under any contract funded with the Grant or other Japanese ODA, if JICA, at any time, determines that the person has engaged in corrupt or fraudulent practices in competing for, or in executing another contract funded with the Grant of other Japanese ODA. When JICA receives information concerning suspected corrupt or fraudulent practices in the competition for, or in the execution of the contract funded by the Grant, the Recipient shall provide JICA with such information as JICA may reasonably request, which includes information related to any concerned official of the government and/or public organizations of the Recipient's country.

The Recipient shall not unfairly or unfavorably treat the physical persons and juridical persons who provided the information concerning suspected corrupt or fraudulent practices in the competition for, or in the execution of the contract funded by the Grant to JICA and/or the Recipient. If the relevant authorities of the Government of Japan decide to impose administrative sanctions such as debarment or exclusion of products manufactured, etc. from Japanese governmental procurement, JICA may ask the Recipient and the Agent to exclude products manufactured by the sanctioned firm from procurement under the Grant for the period of the sanctions by such authorities.

III-III-2 Contents of the Tender Documents

The tender documents should consist of the following documents:

(1) instructions to tenderers;

(2) procurement conditions;

(3) form of the tender; and

(4) draft of the contract.

If a fee is charged for the tender documents, it should be reasonable and reflect the cost of implementing the tender procedure.

III-III-3 Major Items Related to the Instructions to Tenderers

(1) The instructions to tenderers should clearly describe the procedures for question and answers, correcting tender documents, tender procedures, tender evaluations and other issues relevant to the tendering process.

(2) The instructions to tenderers should clearly describe the Products and Services to be procured, qualifications required of tenderers, the existence of local agents, elimination of disqualified firms from the tender, eligible source countries, size of contract, place of delivery and date of shipment, insurance, transportation, bond, warranty, tax exemptions as described in the G/A and other pertinent terms.

(3) The instruction to tenderers should clearly describe that the tender price shall be, stated in both figures and words as firm and final. If there is a difference between the price in words and that in figures, the price in words is deemed correct.

III-III-4 Procurement Conditions

(1) Clarity and Accuracy of Conditions

The procurement conditions should specify clearly and in detail the services to be performed, the Products and Services to be supplied and relevant terms such as content of the Products and Services, technical specifications and place of delivery, etc.

The procurement conditions should identify the essential factors or criteria to be taken into account during the evaluation and comparison of tenders. The procurement conditions should be prepared so as to secure the broadest possible competitive tendering.

(2) Impartiality of Technical Specifications

Technical specifications supplied with procurement conditions should be based on relevant characteristics and required capacities of the Products and Services to be procured.

Making reference to trademark names, catalogue numbers or similar classifications should be avoided unless procuring particular spare parts, etc.

(3) Standards

In the event that specifications require the Products to comply with industrial standards, technical specifications should be decided in an appropriate manner, considering that the Products must meet internationally and domestically accepted standards. These specifications should also be stated in the tender document.

III-III-5 Forms of Tender

The following forms of tender should be clarified:

(1) tender qualification certificates;

(2) tender specifications; and

(3) tender price.

III-III-6 Draft of the Contract

The draft contract should clearly state the contract terms, such as the rights and obligations of the Recipient, the Agent, the Firm (and/or the Consultant) and the following items:

(1) terms of payment;

(2) warranty period;

(3) performance bond;

(4) non-performance of the contract;

(5) force majeure; and

(6) settlement of disputes.

III-IV Implementation of Tender

III-IV-1 Preparatory Period for the Tender

The allowable period for the preparation and submission of the tender should be determined with due consideration to the particular circumstances related to the Project/Programme in the recipient country and the size and complexity of the tender lots. A sufficient period before the date of tender should be allowed from the date when the documents are made available for potential tenderers.

III-IV-2 Guarantee for the Tender

The Agent may request that the tenderers submit a bid bond (e.g. bank guarantees) for the tender. The amount of the bid bond, however, should not be so high as to discourage potential tenderers. The bid bonds submitted from unsuccessful tenderers should be returned immediately after the contract is awarded.

III-IV-3 Questions and Answers regarding the Tender Documents

The Agent, for the purpose of the smooth implementation of the tender, should accept questions about the tender documents from the purchasers of the documents and provide answers to their questions, in accordance with the following points:

(1) reasonable periods should be respectively set for accepting questions and providing answers to those questions; and

(2) answers should be given to those who have purchased tender documents, well in advance of the date of tender so that the prospective tenderers can take proper measures.

III-IV-4 Correction and Alteration of the Tender Documents

Any additional information, supplementary explanations, correction of errors and alterations related to the tender documents should be provided to those who have purchased tender documents, well in advance of the date of tender so that prospective tenderers can take proper measures.

III-IV-5 Prequalification Examination of Tenderers

(1) The Agent may conduct a prequalification examination of tenderers in advance of the tender, so that the invitation to the tender is extended only to eligible firms.

(2) The prequalification examination should be performed not to limit the tenderers, but to confirm the capability and resources of potential tenderers to perform the particular work satisfactorily; it should not hinder the objective of the competitive tendering.

(3) The following points should be taken into consideration:

1) experience and past performance in contracts of a similar type;

2) property foundation or financial credibility;

3) existence of local offices, etc. to be specified in the tender documents; and

4) their potentialities in the use of necessary personnel, equipment and facilities.

III-IV-6 Tender Procedures

(1) The tender documents should clearly indicate the deadline of the date and time for accepting the tendering, as well as the date and place for opening the tender.

(2) The tenderer should be instructed to submit the following necessary tender documents:

1) tender qualification certificates;
2) tender specifications; and
3) tender price.

(3) All tenders should be opened in the presence of the Agent and the tenderers or their representatives on the fixed date, time and place. The presence of the tenderers is not a requirement, as long as transparency and necessary confidentiality are secured. Tenderers who do not attend the tender opening should not be disadvantaged for the selection procedure.

(4) Any tender submitted after the specified deadline is not acceptable as a valid tender.

(5) When opening tenders with the tenderers in attendance, the name of each tenderer and the tender price shall be read aloud and recorded.

III-IV-7 Supplementary Explanation and Modifications of the Tender during Tender Evaluation

(1) No tenderer shall be permitted to modify the content of their tender after the tenders have been opened.

(2) The Agent may request that tenderers provide a supplementary explanation, but not permitted to ask them for substantial modifications of the content of their tender and/or a change in tender price.

III-IV-8 Confidentiality of Tender Process

Until notification of the award has been sent to the successful tenderer, the Recipient and the Agent shall not disclose to the tenderers or other persons not officially associated with the tender procedures, any information on the examination of the tenders, supplementary explanations and evaluations, or any information related to the recommendation of a successful tenderer.

III-IV-9 Examination of Tenders

The Agent shall examine the following items with regard to the submitted tenders:

(1) serious errors in calculation;
(2) attachment of requested documents;
(3) attachment of requested certificates;
(4) attachment of requested guarantees;
(5) confirmation of proper signatures to the documents; and
(6) conformity of the submitted tenders with the instructions for tender documents.

In examining the tenders, if a tender does not substantially conform to the specifications, contains inadmissible reservations, or is otherwise not substantially in accordance with the tender documents, it should be disqualified.

After the above examination, each tender that satisfies the conditions should be examined for evaluation and comparison, in principle, beginning with those submitted from the tenderer with the lowest tender price.

III-IV-10 Tender Evaluation

(1) The tender evaluation shall be implemented on the basis of the conditions specified in the tender documents.

(2) All tenders which substantially conform to the technical specifications and are in accordance with other stipulations of the tender documents shall be opened and judged, in principle, on the basis of the submitted price. The tenderer who offers the lowest price shall be designated as the successful tenderer. If selecting the successful tenderer based solely on the submitted price is not appropriate or rational in respect to the nature of the Products and Services to be procured, elements other than the price, such as length of delivery time or construction periods, and/or superiority of technical specifications, etc. may be considered by qualifying their degrees and evaluating such elements comprehensively with price competitiveness. In such cases, the methods and standards of tender evaluation shall be clearly explained in the tender documents.

(3) In cases where satisfactory results in respect to price or other relevant elements, if any, are not offered in the tender, the Agent may negotiate with the best tenderer (if this fails to obtain satisfactory results, the second ranking tenderer) to try and conclude a satisfactory contract (a contract ad libitum).

(4) If the tender is divided into several lots, a tender evaluation shall be performed for each lot.

III-IV-11 Tender Evaluation Report

The Agent shall prepare a detailed tender evaluation report that clearly shows the reasons for the successful tender and disqualifications, and submit it to the Recipient to obtain confirmation before concluding a contract with the successful tenderer. The Agent shall submit a detailed evaluation report of tenders to JICA for its information, but notification of the results to the tenderers will not be dependent on confirmation by JICA.

III-IV-12 Notification of the Results

(1) The Agent, within the validity period specified in the tender documents, should notify all tenderers of the results of the tender. If notification of the results within the validity period is not possible, the Agent shall notify all tenderers of the extension of the period before the original period ends.

(2) No tenderers shall be required, as a condition of successful tendering, to bear responsibilities or obligations that are not described in the tender documents.

III-IV-13 Rejection of Tenders and Re-tender

(1) The Agent shall not implement re-tendering with the same specifications merely for the purpose of reducing the price, except when the lowest tender price has exceeded the referential price. The rejection of all tenders may only be justified in the following cases:

1) a successful tender is not offered, even after negotiations with the best tenderers when offer prices considerably exceeded the referential price;
2) no tenders comply with the tender documents after examination and evaluation of the tenders;
3) it is clear that competition is impeded in the process; and
4) there is a rational reason to believe that the aim of procurement shall not be achieved by continuing the ongoing tender procedure.

(2) In case all the tenders are to be rejected and a re-tender is to be called, the Agent should examine the causes and consider revising the specifications and other conditions specified in the original tender documents, as well as procurement methods.

III-V Conclusion of the Contract

III-V-1 General

In order to procure the Products and Services in accordance with the G/A, the Agent shall conclude contracts with the Firm and/or the Consultant selected by tendering or other methods. If more than one lot is awarded to the same contractor, the contracts may be combined into one.

III-V-2 Reference to the G/A

The Contract shall clearly state that JICA shall extend the Grant to the Government of (name of recipient country) in accordance with the G/A signed on (date of signature) between JICA and the Government of (name of

recipient country).

III-V-3 Content of the Products and Services

The Contract shall clearly state the content of the Products and Services to be procured. A contract for the procurement of Products and Services which are not covered by the G/A shall not be concluded.

III-V-4 Contract Price

The amount of the total contract price and, where there is/are amendment(s) to the Contract, the amended contract price (hereinafter jointly referred to as "the Contract Price"), and the Agent's Fee shall not exceed the amount of the Grant and its accrued interest. If there are Charges, the total amount of the Contract Price and the Agent's Fee shall not exceed the sum of the Grant, its accrued interest and the Charges. Both the Contract Price and the Agent's Fee shall be precisely and correctly stated in both words and figures. If there is a discrepancy between the price in words and that in figures, the price in words is deemed correct.

III-V-5 Terms of Payment

The Contract shall clearly state the terms of payment. The Agent shall make payment from the Advances upon the submission of the necessary documents from the Firm and/or the Consultant on the basis of the conditions specified in the Contract, after the obligations of the Firm and/or the Consultant have been fulfilled. When Services are the object of procurement, the Agent may pay a certain portion of the contract amount in advance to the Firm and/or the Consultant on the condition that the Firm and/or the Consultant submits an advance payment guarantee worth the amount of the advance payment to the Agent.

III-V-6 Warranty

The Contract shall clearly state the content and period of warranty, if one is provided for the Products and Services to be procured by the providers of such Products and Services.

III-V-7 Performance Guarantee

Both the Firm and/or the Consultant may be requested to submit performance guarantees. Such performance guarantees shall be of an appropriate amount, which shall be returned immediately after the delivery of the products and the completion of services.

III-V-8 Non-performance of the Contract

The Contract shall clearly state that if the performance of a contract by the

Firm and/or the Consultant is delayed from the contracted period of execution or if there is non-performance due to other reasons including bankruptcy, etc., the Agent is permitted to claim payment of indemnities, forfeiture of the performance guarantees, or cancellation of the Contract from the Firm and/or the Consultant.

III-V-9 Force Majeure

The Contract should contain a clause to the effect that failure on the part of the Firm to fulfill obligations under the Contract would not be considered a default if such failure is the result of an event of force majeure as defined in the terms of the Contract.

III-V-10 Consultation and Resolution Procedures

The procedures for consultation and resolution shall be clearly stipulated for cases in which damage is ascribed to the Recipient/Agent and/or the Firm and/or the Consultant and for cases in which the damage is ascribed to force majeure.

III-V-11 Disputes and Arbitration Procedures

The procedures for disputes and arbitration shall be clearly stipulated.

III-V-12 Modifications Procedure

Modification procedures for the Contract shall be clearly stipulated when modification is deemed necessary by the Recipient/Agent and the Firm and/or the Consultant.

III-V-13 Responsibilities and Obligations of Each Party

The Contract shall clearly state the responsibilities and obligations of the Recipient, the Agent and the Firm and/or the Consultant.

III-V-14 Applicable Law

The Contract shall clearly state the applicable law by which the Contract is governed and interpreted.

III-V-15 Effectuation, Amendment, and Announcement of the Results of the Contract

(1) The Contract shall become eligible for the Grant and its accrued interest only after the signing of the Contract between the Agent and the Firm and/or the Consultant.

(2) If an amendment to the Contract is required, the Agent, obtaining the consent of the Recipient in advance, shall conclude a contract for the amendment with the Firm and/or the Consultant. The amended contract shall clearly state that “All clauses except that which is or are amended,

remain unchanged."

(3) As soon as the Contract is concluded, the Agent shall release information on the Agent's website regarding the Contract including the name of the procured items, the name of the Firm and/or the Consultant, the amount of the Contract and the date of the Contract.

III-V-16 Reporting to JICA

The Recipient, via the Agent, shall periodically submit written reports on the progress of the Project/Programme to JICA.