

Guidelines for the Employment of Consultants
under Japanese ODA Loans

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Japan International Cooperation Agency

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Part I

GENERAL

Section 1.01 Introduction

(1) “Guidelines for the Employment of Consultants under Japanese ODA Loans” are applicable to the ODA Loans provided by THE INCORPORATED ADMINISTRATIVE AGENCY-JAPAN INTERNATIONAL COOPERATION AGENCY (hereinafter referred to as “JICA”), under Clause (a), Item (ii), Paragraph 1, Article 13 of the ACT of THE INCORPORATED ADMINISTRATIVE AGENCY-JAPAN INTERNATIONAL COOPERATION AGENCY.

(2) For the efficient and proper preparation and implementation of projects financed in whole or in part by Japanese ODA Loans, most Borrowers of Japanese ODA Loans require the assistance of consultants. (In these Guidelines, the term "the Borrower" also refers to the Executing Agency of the project and the term "consultant(s)" means "consulting firm(s)").

(3) The purpose of these Guidelines is to indicate JICA's views as to the proper selection and employment of consultants and the full utilization of consultants' expertise, and to ensure their impartiality, and, in addition, to set forth general rules to be followed by Borrowers in their use of consultants. Main considerations in selecting consultants are quality, efficiency, transparency in the selection process and non-discrimination among eligible consultants for contracts. How these Guidelines are to apply to a particular project financed by Japanese ODA Loans is to be stipulated in the Loan Agreement between JICA and the Borrower.

Section 1.02 Need for Employment of a Consultant

In most cases, the need to employ a consultant will be established jointly by the Borrower and JICA and the Terms of Reference for their services will be drawn up, either prior to or in the course of the negotiations relating to the ODA Loan of JICA. At the same time, the two parties will agree on the approximate amount of funds required for such services and the schedule of selection of consultants.

Section 1.03 Responsibilities of the Borrower in Selection of a Consultant

The selection of a consultant for a project financed by Japanese ODA Loans is the responsibility of the Borrower.

Section 1.04 JICA's Files on Consultants

(1) JICA maintains files of information supplied by a number of consultants concerning their capability and experience.

(2) Information in JICA's files on consultants is available to the Borrowers who wish to review and assess the experience and qualifications of consultants they are considering for their projects. However, the information available in JICA's reference files is limited, and it is frequently necessary for JICA, or the Borrowers, to request additional detailed information from a particular consultant in order to form a judgment of its capability to carry out a specific assignment.

(3) The fact that JICA has been supplied with information about a consultant does not entitle that consultant to any contract to be financed by Japanese ODA Loans. Neither does it indicate that JICA endorses the consultant's qualifications in general, nor that JICA will accept the consultant's appointment for any specific project. JICA has no list of "approved" consultants.

Section 1.05 JICA's Review

(1) JICA may review the Borrower's selection procedures, documents and decisions. The Borrower shall submit to JICA, for JICA's reference, any related documents and information as JICA may reasonably request. The Loan Agreement will specify the extent to which review procedures will apply in respect of consulting services to be financed by Japanese ODA Loans.

(2) JICA does not finance expenditures for services provided by consultants who, in the opinion of JICA, have not been selected in accordance with the agreed procedures and JICA will cancel that portion of the Loan allocated to such services provided by consultants who have not been properly selected. JICA may, in addition, exercise other remedies under the Loan Agreement.

Section 1.06 Corrupt or Fraudulent Practices

(1) It is JICA's policy to require that consultants, as well as Borrowers, under contracts funded with Japanese ODA Loans and other Japanese ODA, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, JICA;

(a) will reject the result of evaluation of proposals if it determines that the consultant evaluated as the highest-ranked has engaged in corrupt or fraudulent practices in competing for the contract in question;

(b) will recognize a consultant as ineligible, for period determined by JICA, to be

awarded a contract funded with Japanese ODA Loans if it at any time determines that the consultant has engaged in corrupt or fraudulent practices in competing for, or in executing, another contract funded with Japanese ODA Loans or other Japanese ODA.

(2) This provision shall be stated in the Letter of Invitation and in the contract between the Borrower and the consultant.

Part II

CONSULTING SERVICES

Section 2.01 Types of Assignment

(1) In general, the services of consultants can be grouped into the following four broad categories:

(a) Preinvestment studies, including:

- i) determination of the relative priority to be accorded a project;
- ii) formation and comparison of alternatives, and recommendations as to which is the best;
- iii) general engineering layout and preliminary design of major structures;
- iv) estimates of costs, benefits and construction period;
- v) evaluation of economic and technical soundness, financial and commercial viability, suitability of organizational and managerial arrangements and social and environmental impact;
- vi) recommendations and/or implementation related to environmental and social matters, including implementation/review of environmental impact assessments; and
- vii) other recommendations concerning implementation of the project.

(b) Preparation services, including:

- i) detailed investigations and review of preinvestment studies;
- ii) preparation of detailed designs, specifications and contract documents;
- iii) pre-qualification of contractors, suppliers or manufacturers (hereinafter collectively referred to as "Contractor(s)");
- iv) evaluation of bids and recommendations regarding award of contract; and
- v) recommendations and/or implementation related to environmental and social matters, including implementation/review of environmental impact assessments.

(c) Implementation services, including:

- i) supervision of construction work;
- ii) technical and administrative services for the implementation and management of the project; and
- iii) recommendations and/or implementation related to environmental and social matters, including environmental management, monitoring and

audit.

(d) Other services necessary for the project, including:

- i) assistance in the start-up of facilities and their operation for an initial period;
- ii) advisory services, in connection, for example, with development and sector planning and institution building;
- iii) assistance in implementation of recommendations, post-evaluation and impact studies of the project; and
- iv) other Borrower support services.

(2) Taking into account the advantages of continuity of basic technical approach, it is acceptable that functions (b), (c) and (d) above be carried out by the same consultant. If a consultant has already satisfactorily carried out function (a), it shall not be excluded from the short list for a consultant to carry out functions (b), (c) and (d) because of its prior involvement in the project.

Section 2.02 Responsibilities of Consultants

(1) Consultants are at all times to exercise all reasonable skill, care and diligence in the discharge of their duties. Consultants are responsible for the accuracy and completeness of their work.

(2) In all professional matters a consultant is to act as a faithful adviser to the Borrower. The Borrower may, however, in the case of supervision of work and/or management aspects, delegate to a consultant more or less authority to act on its behalf, from full responsibility to make final decisions as an independent engineer, to that of advisor to the client with less authority to make decisions. The nature of and the limits to such delegation of authority to the consultant, as well as the scope and the nature of the responsibilities which the consultant is to assume, shall be clearly defined in the Terms of Reference and in the contract between the Borrower and the consultant.

(3) In the case of a difference of opinion between the Borrower and the consultant on any important matters involving professional judgment that might affect the proper evaluation or execution of the project, the Borrower shall allow the consultant to submit promptly to the Borrower a written report and, simultaneously, to submit a copy to JICA. The Borrower shall forward the report to JICA with its comments in time to allow JICA to study it and communicate with the Borrower before any irreversible steps are taken in the matter. In cases of urgency, a consultant shall have the right to request the Borrower and/or JICA that the matter be discussed

immediately between the Borrower and JICA. This provision shall be stated in the Terms of Reference and in the contract between the Borrower and the consultant.

Section 2.03 Competence of Consultants

In order to ensure the efficient and proper execution of the project as specifically required by the Loan Agreement, it is essential that consultants employed on projects financed by Japanese ODA Loans clearly possess the necessary competence.

Section 2.04 Impartiality of Consultants

In order to ensure that the goods and services used for projects financed by Japanese ODA Loans are suitable and their cost reasonable, and in order to ensure also that designs and specifications in no way limit JICA's requirements regarding competitive bidding, it is also essential that consultants employed on projects financed by Japanese ODA Loans shall be demonstrably impartial.

Section 2.05 Types of Consultants

(1) In general, consulting firms fall into one or more of the following categories:

(a) Independent consulting firms;

(b) Organizations of a public character (including public corporations and foundations) which also provide consulting services;

(c) Firms which combine the functions of consultant with those of contractor, or which are associated with, affiliated to, or owned by contractors; and/or

(d) Firms which combine the functions of consultant with those of manufacturer, or which are associated with, affiliated to, or owned by manufacturers.

(2) In line with Section 2.04, consulting firms in all categories of paragraph (1) of this Section employed by the Borrower to provide consulting services for the preparation related to procurement for or implementation of a project, and any of their associates/affiliates (inclusive of parent firms), shall be disqualified from working in any other capacity on the same project (including bidding relating to any goods and works for any part of the project), other than a continuation of the firm's earlier consulting services as further described in paragraph (2) of Section 2.01. Only in special cases and only with clear justification, and after taking into account all aspects and circumstances, may JICA and the Borrower agree to permit a firm and/or its associates/affiliates (inclusive of parent firms) to be invited to bid on a project financed by Japanese ODA Loans as a Contractor, when it is also employed on the same project

as a consultant.

(3) The provisions of paragraph (2) of this Section also apply to Contractors who lend, or temporarily second, their personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.

Section 2.06 Monitoring by JICA

(1) The Borrower is responsible for supervising the consultant's performance and ensuring that the consultant carries out the assignment in accordance with the contract. Without assuming the responsibilities of the Borrower or the consultant, JICA may monitor the work as necessary in order to satisfy itself that it is being carried out in accordance with appropriate standards and is based on acceptable data.

(2) As appropriate, JICA may take part in discussions between the Borrower and the consultant. However, JICA shall not be liable in any way for the implementation of the project by reason of such monitoring or participation in discussions. Neither the Borrower nor the consultant shall be released from any responsibility for the project by reason of JICA's monitoring or participation in discussion.

(3) This provision shall be clearly stated in the agreement between the Borrower and the consultant.

Part III

SELECTION PROCEDURES

Section 3.01 General

(1) JICA normally requires Borrowers to adopt the following procedures in the selection and employment of Consultants.

- (a) Preparation of a Short List of Consultants;
- (b) Preparation of the Request for Proposals;
- (c) Invitation to submit proposals;
- (d) Evaluation of proposals; and
- (e) Negotiation and conclusion of a contract.

(2) Should two or more consultants jointly submit a proposal for consulting services, the same procedures as outlined in this Part are to be followed.

(3) All documents relating to the selection and employment of consultants should be in one of the following languages, selected by the Borrower: Japanese, English, French or Spanish. If a language other than Japanese, English, French or Spanish is used in those documents, a full English text shall be incorporated in them and it shall be specified which is governing.

Section 3.02 Method of Selection

(1) The methods that are used for the selection of consultants under a loan shall be agreed by the Borrower and JICA before the start of the selection process.

(2) Quality- and Cost-Based Selection (QCBS), a method that takes into account the quality of the proposal and the cost of the services, is the commonly recommended method. However, for cases where QCBS is not the most appropriate, other methods of selection are applied.

(3) Quality-Based Selection (QBS) is a method based on evaluating only the quality of the technical proposals and the subsequent negotiation of the financial terms and the contract with the highest ranked consultant.

QBS should be applied only for the following types of assignments:

- (a) complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants;
- (b) assignments where the downstream impact is so large that the quality of the service is of overriding importance for the outcome of the project (for example,

engineering design of major infrastructure);

(c) assignments that can be carried out in substantially different ways such that financial proposals maybe difficult to compare; and

(d) assignments including supervision of large and complex construction works for which it is particularly important to take safety measures.

(4) Single-source selection (SSS) shall be used only in exceptional cases. The justification for SSS shall be examined in the context of the overall interests of the Borrower and the project, and JICA's responsibility to ensure efficiency and transparency in the selection process and non-discrimination among eligible consultants for contracts. SSS may be appropriate only if it presents a clear advantage over competition:

(a) for tasks that represent a natural continuation of previous work carried out by the firm;

(b) in emergency cases, such as in response to disasters;

(c) for very small assignments; or

(d) when only one firm is qualified or has experience of exceptional worth for the assignment.

Section 3.03 Preparation of the Terms of Reference

(1) The first step in the engagement of a consultant is for JICA and the Borrower to agree on the need to use a consultant, on the Terms of Reference for its services, on the type of consultant to be employed and on the approximate amount of funds required for the consulting services.

(2) The Terms of Reference shall describe the scope of the consulting services in as much detail as possible, especially as regards alternative solutions the consultant is expected to explore in the course of its work and as to how much authority will be delegated to it to act on the Borrower's behalf. In addition, the Terms of Reference shall provide information on the background of the project, on the availability of relevant basic data* , on national and/or other standards and the specifications to be used in the design of the project, and on the conditions under which the work shall be performed. (See Annex I)

(3) In the case of projects classified into specific categories in accordance with the relevant environmental guidelines published by JICA, consulting services related to environmental consideration, such as those described in Section 2.01, shall be included in the scope. (See Annex I)

(4) Safety shall be emphasized in the implementation of the project. The

consulting services related to safety measures shall be specified, if necessary, in the Terms of Reference.

* Coverage, scale and accuracy of the available maps and aerial photographs, data on climate, hydrology and subsoil, facilities available (office space, housing, transportation, counterparts), etc.

Section 3.04 Preparation of Short List of Consultants

(1) Once JICA and the Borrower have agreed on the Terms of Reference for the consulting services required, as described in Section 3.03, the Borrower shall prepare a Short List of Consultants to be invited to submit proposals, taking into account the factors mentioned in Parts I and II. (See Annex II)

(2) Such a Short List shall normally consist of not less than three and not more than five consultants. There is usually little advantage in inviting more than five consultants to submit proposals, because with a larger number some are likely to be less interested and the quality of proposals is likely to suffer.

(3) Should the Borrower find it difficult to compile a satisfactory Short List of qualified consultants from the information available to it from its own past experience and other sources, JICA will, at the request of the Borrower, make available information on consultants, from which the Borrower may draw up its own Short List.

Section 3.05 Preparation of the Request for Proposals

(1) The Request for Proposals shall request consultants to cover at least the points specifically mentioned in the Terms of Reference.

The Request for Proposals shall also stipulate the details of the selection procedure to be followed, including the technical evaluation categories and an indication of the weight to be given to each.

(2) When QBS is applied, the Request for Proposals shall clearly state that the selection of the first consultant to be invited to negotiate a contract will be made solely on the basis of the ranking of the technical proposals.

(3) Since it is advisable that consultants invited to submit proposals be able to visit the country and the project site before submitting their proposals, the invitation shall, as a rule, allow 45-60 days from the date of the actual mailing of the Request for Proposals to the deadline for submission of proposals.

(4) The Request for Proposals shall also request consultants to notify the Borrower in writing within a specified time whether or not they intend to submit

proposals.

Section 3.06 Reference to JICA

The Request for Proposals shall normally refer to JICA using the following language:

“.....(name of Borrower).....has received (or where appropriate, ‘has applied for’) an ODA Loan from THE INCORPORATED ADMINISTRATIVE AGENCY-JAPAN INTERNATIONAL COOPERATION AGENCY (hereinafter referred to as “JICA”) in the amount of ¥_____toward the cost of (name of project, signed date of Loan Agreement), and intends to apply (where appropriate, ‘a portion of’) the proceeds of the loan to eligible payments under this contract. Disbursement of a Japanese ODA Loan by JICA will be subject, in all respects, to the terms and conditions of the Loan Agreement, including the disbursement procedures and the ‘Guidelines for the Employment of Consultants under Japanese ODA Loans’. No party other than (name of Borrower) shall derive any rights from the Loan Agreement or have any claim to loan proceeds. The above Loan Agreement will cover only a part of the project cost. As for the remaining portion, (name of Borrower) will take appropriate measures for finance.”

Section 3.07 Sending of the Request for Proposals to Consultants

After preparing the Short List and the Request for Proposals in accordance with the provisions of the foregoing Sections, the Borrower shall invite all the consultants on the Short List to submit proposals by mailing to them the Request for Proposals.

Section 3.08 Evaluation of Technical Proposals

(1) Firms shall be required to submit technical and financial proposals in separate sealed envelopes at the same time. The financial proposals shall remain sealed until evaluation of the technical proposals is completed. When QBS is applied, a financial proposal can be requested to submit only to the highest-ranked consultant for contract negotiation.

(2) Proposals received by the Borrower in response to the invitation shall be evaluated in accordance with the criteria stipulated in the Request for Proposals concurred by JICA.

(3) Such criteria shall normally include:

(a)The consultant's general experience and record in the field covered by the Terms of Reference;

(b) The adequacy of the proposed approach, methodology and work plan; and

(c) The experience and records of the staff members to be assigned to the work.

(4) The relative importance of the three above-mentioned factors will vary with the type of consulting services to be performed, but in the overall rating of the proposals most weight shall normally be given either to the qualifications of the staff members to be assigned to the project or to approach and methodology, rather than to the fame or reputation of a firm.

(5) To assess the qualifications of the staff members to be assigned to the project, their curricula vitae shall be evaluated on the basis of the following three criteria:

(a) General qualifications (education, length of experience, types of position held, length of service with the firm, etc.);

(b) Suitability for the project (experience of performing the duties which will be assigned to them in the project); and

(c) Familiarity with the language and the conditions of the country in which the work is to be performed or experience in similar environments.

(6) In its evaluation of technical proposals, the Borrower shall use numerical ratings and prepare an evaluation report including a summary evaluation sheet (a sample is shown in Annex IV) as soon as possible. The evaluation report shall normally give detailed information on the following items, supplementing the summary evaluation sheet:

(a) Selection Committee or other similar organization, if any, responsible for the evaluation, and the domestic laws, ordinances or orders which govern the establishment and/or functioning of the Committee or other similar organization;

(b) Selection criteria and relative weight distribution, with reasons for adopting each criterion and the basis for deciding the weight distribution;

(c) Rating: reason for arriving at the rating given for each item for each firm.

(7) After the technical quality is evaluated, firms whose technical proposals did not meet the minimum qualifying score, or were considered non-responsive to the invitation requirements, will be advised and their financial proposals will be returned unopened.

Section 3.09 Public Opening of Financial Proposals

(Applicable only to QCBS)

(1) Firms that have secured the minimum qualifying technical score will be advised of the location, date, and time for opening of financial proposals.

(2) The name of the firms, the technical quality scores, and the proposed prices shall be announced, and recorded when the financial proposals are opened.

(3) For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes (all indirect taxes levied on the contract invoices, at National, State (or Provincial) and Municipal levels) on the contract and income tax payable to the country of the Borrower on the remuneration of services rendered in the country of the Borrower by non-resident staff of the consultant.

Section 3.10 Evaluation of Financial Proposals and Ranking of Proposals

(Applicable only to QCBS)

(1) The Borrower shall review the congruency of the technical and financial proposals, make adjustments as appropriate, and correct arithmetical or computational errors.

(2) The total score shall be obtained by weighting and adding the technical and financial scores; this will determine the overall ranking of the consultants’ proposals. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. It shall normally be 20%.

Section 3.11 Contract Negotiations

(1) After evaluation of the proposals has been completed, the Borrower shall invite the highest-ranked consultant to enter on negotiations on the conditions of a contract between them. When QCBS is applied, proposed unit rates for remuneration shall not be altered since they have been factors in the selection process.

(2) When QBS is applied, discussions concerning costs and other financial matters shall be conducted only with a consultant who has been selected to be invited to enter on contract negotiations.

(3) If the two parties are unable to reach agreement on a contract within a reasonable time, the Borrower shall terminate the negotiations with the first consultant and invite the consultant who ranked second in the evaluation to enter on negotiations. The Borrower shall consult with JICA prior to taking this step. This procedure shall be followed until the Borrower reaches agreement with a consultant.

(4) While there should be some flexibility in work plans, staff assignment and

major work inputs which have been previously agreed on as appropriate for the assignment shall not be materially modified to meet a budget.

Section 3.12 Notification to Unsuccessful Consultants and Debriefing

(1) Promptly after completion of negotiations with the selected consultant, the Borrower shall notify the other consultants on the Short List that they have been unsuccessful.

(2) If any consultant who submitted a proposal wishes to ascertain the reasons why its proposal was not selected, such consultant should request an explanation from the Borrower. The Borrower shall promptly provide an explanation as to why its proposal was not selected.

Section 3.13 Information to be Made Public

(1) After a contract is determined to be eligible for JICA's financing, the names of all consultants who submitted proposals, the technical points assigned to each consultant, the offered prices of each consultant, the overall ranking of the consultants, the name and address of successful consultant concerning the award of contract, and the award date and amount of the contract may be made public by JICA.

(2) The Borrower shall have all provisions and measures necessary to ensure that the above information shall be available for being made public incorporated in documents related to selection, such as the Request for Proposals and contracts.

Section 3.14 Process to be Confidential

Except as may be required by law, no information relating to the evaluation of proposals and recommendations concerning awards shall be communicated to any persons not officially concerned with this process until a contract has been awarded to a consultant.

Part IV

CONTRACT

Section 4.01 General

The contract between the Borrower and the consultant shall be prepared in such detail as to adequately protect the interests of both parties to the contract. As a rule, the contract shall, inter alia, include the clauses outlined below.

Section 4.02 Scope of the Project and of the Consulting Services

(1) The contract shall describe in detail the scope and duration of the project and of the services to be rendered by the consultant.

(2) Consultants shall review the content of the plan for safety measures prepared by the Contractor for the project, if necessary.

Section 4.03 Duration of Contract

The contract shall specify the dates for the beginning and completion of the consultant's services.

Section 4.04 Conditions relating to Validity of Contract

The contract shall include a clause specifying on what conditions it will be valid.

Section 4.05 Responsibilities of the Parties

(1) The contract shall clearly describe the responsibilities of the Borrower and of the consultant and the relationship between them.

(2) Where the consultant is a joint venture or other form of association of firms, the contract shall state clearly whether they will both/all be "jointly and severally" responsible for performance under the contract, or whether one firm will be "solely" responsible, and shall state which firm will be acting on behalf of the joint venture (or other type of association of firms) in all its relations and communications with the Borrower.

Section 4.06 Contract Amount

The contract shall state clearly the total amount, or "ceiling", of fees to be paid to the consultant.

Section 4.07 Description of Consultants' Costs and Fees

(1) The personnel costs and fees necessary for fulfillment of the contract shall normally be expressed in terms of fixed "man-month rates" for each expert staff member to be provided by the consultant. The "man-month rate" will include the basic salary of the staff member, the firm's overheads (including financial, social security and other benefits payable to, or for, the staff member, such as vacation pay, sick leave pay, insurance, etc.) and the firm's fee.

(2) For extended periods of field service in the country concerned, the contract may also provide for overseas allowances in addition to the "man-month rate" mentioned in paragraph (1) of this Section.

(3) The contract shall stipulate clearly the number of working or calendar days of vacation and sick leave to which each staff member will be entitled.

(4) In addition to the personnel costs described under paragraph (1) of this Section, the contract shall normally provide for reimbursement, at actual cost or agreed "unit cost" for travel, equipment and other items necessary for the consulting services covered by the contract.

(5) The contract shall normally include an amount set aside for contingencies, such as work not foreseen and rising costs, which the consultant may not use, however, without the written approval of the Borrower.

Section 4.08 Currency in which Costs and Fees are to be Expressed

(1) A Japanese ODA Loan of JICA is denominated in Japanese Yen and the costs and fees should normally be stated in Japanese Yen. Whenever necessary, however, other international trading currencies may also be permitted.

(2) In addition, any portion which the consultant expects to spend in the Borrower's country may be stated in the currency of the country of the Borrower.

Section 4.09 Conditions and Methods of Payment

(1) The contract shall specify the conditions and methods of payment, the currency or currencies in which payment is to be made, and the rate of exchange for any currency conversion.

(2) Payment to the consultant shall be scheduled in such a manner as roughly to keep pace with its expenditures (i.e. the consultant shall not receive payments substantially in advance of its actual expenses for its services nor shall it have to wait long for payment for services already rendered). In line with this concept, the contract may, when appropriate, provide for the following:

(a) An advance payment to the consultant at the time the contract becomes effective that will approximately cover its initial reimbursable expenses;

(b) Withholding of the final payment until all services covered by the contract have been completed.

In case (b) above, however, the final payment shall be made within the disbursement period stipulated in the Loan Agreement.

Section 4.10 Ownership and Disposal of Equipment

The contract shall stipulate the ownership of equipment to be procured, and the manner of disposal of any equipment remaining after the services have been completed.

Section 4.11 Services to be provided by the Borrower

The contract shall clearly specify the services and facilities to be provided by the Borrower, such as counterpart staff, maps, aerial photographs, data and statistics, office space, housing, vehicles and equipment.

Section 4.12 Privileges and Immunities of the Consultant

The contract shall state clearly what privileges and immunities the consultant will be accorded, especially as regards visas and work permits, corporate and personal income taxes and other dues, customs duties, etc.

Section 4.13 Serious Hindrances

The contract shall require the consultant to report* to the Borrower and JICA promptly the occurrence of any event or condition which might delay or prevent completion of any significant part of the project in accordance with the agreed schedules and to indicate what steps shall be taken to meet the situation.

* Where the Borrower receives such a report from the consultant, the Borrower shall immediately forward a copy of it to JICA, together with its comments on the report and an outline of the steps the report proposes shall be taken.

Section 4.14 Reports

The contract shall specify the scope, number, type and frequency of the reports to be submitted by the consultant to the Borrower.

Section 4.15 Copyright

The contract shall specify whether the copyright of documents prepared by the consultant under the contract rests with the consultant or the Borrower.

Section 4.16 Modifications

The contract shall provide that it may only be modified by agreement in writing between the two parties.

Section 4.17 Force Majeure

The contract shall clearly establish:

(1) The force majeure conditions which would release the consultant, temporarily or permanently, from all or part of its obligations under the contract;

(2) The procedures to be followed by the consultant regarding determination and notification of any such conditions; and

(3) The Borrower's and the consultant's rights and obligations (e.g., as to payments following termination, including, if appropriate, reimbursement of movement expenses) in force majeure situations.

Section 4.18 Termination

The contract shall include a clause specifying in detail on what conditions either party may terminate the contract and a clause stipulating procedures to be followed by the party wishing to terminate the contract. The contract shall state clearly the rights and obligations of both parties in the event of termination of the contract.

Section 4.19 Settlement of Disputes

(1) The contract shall establish the procedures to be followed in case of a dispute arising between the Borrower and the consultant in connection with the contract.

(2) For the settlement of such disputes, JICA recommends recourse to impartial institutions specializing in such matters, such as the International Chamber of Commerce.

(3) Whenever the laws of the Borrower's country prohibit such recourse to institutions specializing in arbitration, the contract shall include alternative provisions for the settlement of disputes between the Borrower and the consultant.

Section 4.20 Applicable Laws

The contract shall stipulate which laws shall govern its interpretation and performance.

Section 4.21 Language

The contract should be prepared in one of the following languages, selected by the Borrower: Japanese, English, French or Spanish. If a language other than Japanese, English, French or Spanish is used in the contract, a full English text shall be incorporated in the contract and it shall be stipulated which is governing.

TERMS OF REFERENCE

(The Terms of Reference shall include the items mentioned below. The relevance of an item will depend on the nature of the project.)

1. Project Information

- (1) Background information -- history of the project's evolution and the reason(s) why it is necessary to implement the project.
- (2) Location of the project and information on the surrounding area.
- (3) Stage reached in the project's preparation and summary of the findings of studies to date.
- (4) Implementing organization.
- (5) Details of the major problem areas.

2. Other Relevant Information

- (1) Technical information -- availability of relevant basic data, technical standards or specifications to be used, etc.
- (2) Relevant laws and regulations.
- (3) Related projects

3. General Terms of Reference

- (1) Objectives
- (2) Scope of consulting services -- Categories of consulting services to be provided, nature of consulting work (the latter in detail, including equipment and materials to be supplied by the consultant). In the case of projects classified into specific categories in accordance with the relevant environmental guidelines published by JICA, consulting services related to environmental consideration, such as those described in Section 2.01, shall be included in the scope.
- (3) Nature of and limit to the responsibilities which the consultant is to assume.
- (4) Estimated time required to complete (a) the project, (b) the consulting work; number and qualifications of experts; man-months as estimated by the Borrower for budget purposes.
- (5) Scope, number, type and frequency of the reports to be presented by the consultant.

- (6) Other necessary provisions regarding the obligations between the Borrower and the consultant which are stipulated in Guidelines for the Employment of Consultants under Japanese ODA Loans (e.g. Section 2.02(3), Section 2.06).

4. Specific Terms of Reference

- (1) Methodological details relating to the consulting services mentioned above.
- (2) Provision for the review of previous studies and for possible additional studies.

5. Services and Facilities to be provided by the Borrower

SHORT LIST OF CONSULTANTS

Names	Country of Registration	Address	Name of Chairman (or equivalent)	Major Projects undertaken (countries)	Clients
-------	-------------------------	---------	-------------------------------------	--	---------

1.

2.

3.

4.

5.

LETTER OF INVITATION

Date: _____

Ref No: _____

To: _____

(Name and Address of Consultant)

_____Project

Gentlemen:

1. (name of Borrower/Executing Agency) (hereinafter referred to as "the Government" *) is planning to (brief description of project), in (name of project area). The Government intends to employ a consultant to provide services for (categories of consulting services) for the project.
2. (A substantial part of) the cost of the consulting services will be financed out of the proceeds of an ODA Loan extended for the project by THE INCORPORATED ADMINISTRATIVE AGENCY-JAPAN INTERNATIONAL COOPERATION AGENCY (hereinafter referred to as "JICA"), and the consultant to be employed will be selected in accordance with the Guidelines for the Employment of Consultants under Japanese ODA Loans.
3. You are one of (number of consultants being invited) consultants being invited to present a proposal for consulting services. For detailed information concerning the services, please refer to the Terms of Reference attached hereto.
4. You may undertake the work in association with other consultants (not necessarily selected from among the other consultants invited to present proposals), provided that the consultants invited shall execute a major portion of the services. In such a case, the proposal shall state clearly whether the partners in the association will be "jointly and severally" responsible for performance under the consulting services contract, or whether one of the partners will be "solely" responsible, and it shall state which partner will be acting on behalf of the association in all its relations and communications with the Government.

5. You may submit one proposal, either individually as a proponent or as a partner in a joint venture, in which partners are jointly and severally responsible for the contract. No firm can be a subconsultant, which is not responsible for the contract, while submitting a proposal individually or as a partner in a joint venture in the same selection process. A firm who participates in more than one proposal will cause all the proposals in which the firm has participated to be disqualified. A firm, if acting in the capacity of subconsultant or association member (not liable for entire contract) in any proposal, may participate in more than one proposal, but only in that capacity.

6. Your proposal shall cover in detail the following:

(1) The background and experience of your firm (and, if any, associated firms), including a list of past and present work of (a) a nature similar to this project and (b) Japanese ODA projects in the last five /ten years.

(2) The general approach and methodology which you propose for carrying out the services covered in the Terms of Reference, including such detailed information as you deem relevant, together with:

(a) A detailed overall work program and a bar chart indicating the duration and the timing of the assignment of each expert or other staff member assigned to the project;

(b) Your estimate of the total number of man-months required; and

(c) A clear description of the responsibilities of each expert staff member within the overall work program.

(3) The name, background and professional experience of each expert staff member to be assigned to the project, with particular reference to his experience of work of a nature similar to that of the proposed assignment. You are requested to cover at least the points specifically mentioned in the Terms of Reference and in this letter.

(OPTION A: When QCBS is applied)

7. Selection of the first consultant to be invited to negotiate a contract will be made on the basis of the ranking of the proposals evaluated with respect to the qualifications of the consulting firms and the expert staff to be assigned to the work and to the quality of the proposals regarding approach and methodology, as well as your proposal on the estimated costs or financial terms of your services. Details of the selection procedure to be followed, including the technical evaluation categories and an indication of the weight to be given to each are stated in the Information to Consultants.

(OPTION B: When QBS is applied)

7. Selection of the first consultant to be invited to negotiate a contract will be made solely on the basis of the ranking of the proposals evaluated with respect to the qualifications of the consulting firms and the expert staff to be assigned to the work and to the quality of the proposals regarding approach and methodology. You shall, therefore, not include in your proposal any information on the estimated costs or financial terms of your services. Details of the selection procedure to be followed, including the technical evaluation categories and an indication of the weight to be given to each are stated in the attached sheet.

8. You shall note that if you combine the functions of consultant with those of a contractor and/or a manufacturer, you must include in your proposal all relevant information regarding such relationship, along with an undertaking to the effect that you agree to limit your role to that of consultant and to disqualify yourself, your associates/affiliates and/or parent firm from work in any other capacity on this project other than that of consultant. You are also requested to state in your proposal that you will ensure that specifications and designs recommended by you will be impartial and in no way limit competitive bidding. If, in connection with the performance of the consulting services, you intend to borrow, or hire temporarily, personnel from contractors and/or manufacturers, you must include in your proposal all relevant information about such personnel. In such a case, you will be acceptable only if those contractors and/or the manufacturers disqualify themselves from work on this project other than that of consultant.

9. JICA requires that consultants, as well as the Government, under contracts funded with Japanese ODA Loans and other Japanese ODA, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, JICA;
 - (a) will reject an evaluation of proposals if it determines that the consultant evaluated as the highest-ranked has engaged in corrupt or fraudulent practices in competing for the contract in question;
 - (b) will recognize a consultant as ineligible, for a period determined by JICA, to be awarded a contract funded with Japanese ODA Loans if it at any time determines that the consultant has engaged in corrupt or fraudulent practices in competing for, or in executing, another contract funded with Japanese ODA Loans or other Japanese ODA.

10. We shall be grateful if you would notify us in writing not later than (_____)

whether or not you intend to present a proposal at the following address:

11. You are requested to send (____) copies of your proposal to (_____) not later than (_____).
12. After all proposals have been evaluated, the consultant who has submitted the first-ranked proposal** will be invited to discuss the financial and other terms of a contract.
13. Should you desire additional information, we will do our best to provide it. Requests for additional information, or any delay in complying with such requests, shall not, however, in any way affect the obligation of firms invited to send complete proposals by the deadline indicated above.

Yours faithfully,

(Name of Government)

(Authorized Signature)

Attached: Terms of Reference

* In most cases equivalent to the Borrower referred to in these Guidelines. When an organization other than a Government is the Borrower, the phraseology will differ accordingly.

**The words "with JICA's consent/concurrence" shall be inserted where appropriate.

*** This annex is subject to change based on revisions made in the Sample Documents for Selection of Consultants under Japanese ODA Loans.

**** (Applicable only to QCBS) The minimum man-months required for the assignment (both international and local), the weight for quality and cost, and the methodology to calculate the total score shall be expressed in the Request for Proposals (RFP).

Annex IV

SUMMARY TECHNICAL EVALUATION SHEET

Name of Firm ⁴⁾		A		B		C		D		E		
Selection criteria ²⁾ (see Section 3.08 of these Guidelines)		Weight ³⁾ (w)	Ratings (r)	Weighted (w)×(r)	(r)	(w)×(r)	(r)	(w)×(r)	(r)	(w)×(r)	(r)	(w)×(r)
I	Experience of Firm	20		8.4		17.2		11.2		14.4		16.8
	1.Experience of international projects of comparable size, complexity and technical speciality	8	0.5	4.0	0.8	6.4	0.6	4.8	0.8	6.4	0.9	7.2
	2.Experience in developing countries under comparable conditions	8	0.3	2.4	0.9	7.2	0.5	4.0	0.7	5.6	0.8	6.4
	3. Experience in Japanese ODA projects	4	0.5	2.0	0.9	3.6	0.6	2.4	0.6	2.4	0.8	3.2
II	Proposal	30		15.0		25.5		18.0		19.5		22.5
	1.Approach and Methodology	15	0.5	7.5	0.9	13.5	0.6	9.0	0.6	9.0	0.8	12.0
	2.Work Plan (including staffing schedule)	15	0.5	7.5	0.8	12.0	0.6	9.0	0.7	10.5	0.7	10.5
III	Personnel	50		28.6		38.5		30.8		34.2		39.4
	1.Project Manager	15	0.6	9.0	0.8	12.0	0.7	10.5	0.6	9.0	0.9	13.5
	2.Engineers	28		16.8		21.6		16.8		19.6		19.6
	(i)Design Engineers	(4)	0.6	(2.4)	0.8	(3.2)	0.6	(2.4)	0.8	(3.2)	0.8	(3.2)
	(ii)Survey Engineers	(4)	0.5	(2.0)	0.7	(2.8)	0.6	(2.4)	0.6	(2.4)	0.7	(2.8)
	(iii)Structural Engineers	(4)	0.8	(3.2)	0.9	(3.6)	0.8	(3.2)	0.7	(2.8)	0.7	(2.8)
	(vi)Civil Engineers	(4)	0.7	(2.8)	0.6	(2.4)	0.5	(2.0)	0.7	(2.8)	0.9	(3.6)
	(v)Mechanical Engineers	(4)	0.6	(2.4)	0.9	(3.6)	0.6	(2.4)	0.8	(3.2)	0.7	(2.8)
	(vi)Economic Analysis	(4)	0.5	(2.0)	0.8	(3.2)	0.5	(2.0)	0.7	(2.8)	0.6	(2.4)
	(vii) Financial Analysis	(4)	0.5	(2.0)	0.7	(2.8)	0.6	(2.4)	0.6	(2.4)	0.5	(2.0)
	3.Head Office Support	7	0.4	2.8	0.7	4.9	0.5	3.5	0.8	5.6	0.9	6.3
Total	100		52.0		81.2		60.0		68.1		78.7	
Rank ¹⁾			5		1		4		3		2	

Notes:

- 1) In case of QBS, the firm with the greatest number of points shall, other factors being equal, be ranked first.
- 2) Additional items may be used and criteria included above may be deleted, as appropriate.
- 3) The weight distribution will depend upon the type and nature of the project.
- 4) The minimum technical score shall be indicated, if applicable.
- 5) Joint ventures shall be evaluated in the same manner, since they shall function as a unit.
- 6) The rating categories shall be: Excellent 0.9 - 1.0, Good 0.8 - 0.89, Average 0.6 - 0.79, Below average 0.4 - 0.59, Poor 0.0 - 0.39.

* This annex is subject to change based on revisions made in the Sample Documents for Selection of Consultants under Japanese ODA Loans.